

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

TYSON FOODS, INC., et al,)

Defendants.)

) 4:05-CV-00329-TCK-SAJ

- - - - -

THE VIDEOTAPED DEPOSITION OF
TIMOTHY MAUPIN, produced as a witness on behalf of
the Plaintiff in the above styled and numbered
cause, taken on the 15th day of May, 2008, in the
City of Wichita, County of Sedgewick, State of
Kansas, before me, Lisa A. Steinmeyer, a Certified
Shorthand Reporter, duly certified under and by
virtue of the laws of the State of Oklahoma.

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I N D E X

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1 (Whereupon, the deposition began at
2 9:02 a.m.)

3 VIDEOGRAPHER: We are now on the Record for
4 the deposition of Timothy Maupin. Today's date is
5 May 15th, 2008. The time is 9:01 a.m. Would 09:02AM
6 counsel please identify themselves for the Record?

7 MR. GARREN: This is Richard Garren for the
8 State of Oklahoma.

9 MR. BULLOCK: Louis Bullock for the State
10 of Oklahoma. 09:02AM

11 MR. EHRLICH: Del Ehrlich for defendants
12 Cargill, Inc., and Cargill Turkey Production. With
13 me as well, John Tucker and Todd Walker.

14 MR. HIXON: Philip Hixon on behalf of
15 Peterson Farms, Inc. 09:02AM

16 MR. GARREN: Michael, you want to go next?

17 MR. SANDERS: Bob Sanders is joining.

18 MR. BOND: Michael Bond on behalf of
19 defendants, Tyson Foods, Inc., Tyson Chicken, Inc.,
20 Tyson Poultry, Inc., and Cobb-Vantress, Inc. 09:02AM

21 MS. LLOYD: Jennifer Lloyd on behalf of
22 George's, Inc.

23 MS. GRIFFIN: Jennifer Griffin on behalf of
24 Willow Brook Foods.

25 MR. SANDERS: I'm sorry, I got here late. 09:03AM

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1 Bob Sanders for the Cal-Maine defendants.

2 VIDEOGRAPHER: Thank you. The witness may
3 be sworn.

4 TIMOTHY MAUPIN
5 having first been duly sworn to testify the truth,
6 the whole truth and nothing but the truth, testified
7 as follows:

8 DIRECT EXAMINATION

9 BY MR. GARREN:

10 Q Please state your full name for the court. 09:03AM

11 A My name is Timothy Wade Maupin.

12 Q Are you currently employed?

13 A Yes, I am.

14 Q And with whom are you employed?

15 A Cargill Turkey Production, LLC. 09:03AM

16 Q What's your current position with Cargill
17 Turkey?

18 A Turkey Production, LLC?

19 Q Yes, sir.

20 A I'm vice-president of agricultural operations. 09:03AM

21 Q How long have you been in that position?

22 A Since December of 2003.

23 Q What's your current home address?

24 A 120 North Cardinal Lane, Wichita, Kansas.

25 Q Have you ever given a deposition before? 09:04AM

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1 A Yes.

2 Q And how many times have you done so?

3 A This will be the fourth time.

4 Q Okay. Just so you and I have an

5 understanding, during the deposition if you don't 09:04AM

6 understand any of my questions, please ask me to

7 rephrase it and tell me that you don't. That way if

8 I ask you a question, I'm going to assume that you

9 understand it when I do ask it and we can have a

10 clear Record. We can take breaks as necessary. 09:04AM

11 Typically the video is going to run out every hour

12 almost, so we can take breaks, short breaks in

13 between that if need be.

14 A Okay.

15 Q Who did you talk to today to prepare for your 09:04AM

16 deposition?

17 A Our attorneys.

18 Q And who were those attorneys?

19 A Do you want all the names?

20 Q Yes, sir. 09:05AM

21 A Del Ehrich, Todd Walker, and we have in-house

22 attorneys that I've spoken to as well.

23 Q And what are their names?

24 A Kim Thorstad.

25 Q Anyone else? 09:05AM

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1 A That's all with regard to this case.

2 Q Did you look at any documents to prepare for
3 this deposition?

4 A Yes. I've looked at documents that were in my
5 file. 09:05AM

6 Q And what kind of documents are in your file?
7 Are you talking about a single file or are you
8 talking about files?

9 A I'm not sure I understand the question. Is
10 it -- 09:05AM

11 Q Just tell me what documents you looked at to
12 prepare for this deposition.

13 A There were various documents regarding live
14 production, environmental memos, those kind of
15 things. 09:06AM

16 Q Did you look at any pleadings in this case?

17 A No.

18 Q Did you look at any discovery responses or
19 discovery questions that have been propounded in
20 this case? 09:06AM

21 A No.

22 Q Let me hand you what's been marked as
23 Plaintiff's Exhibit No. 1.

24 MR. GARREN: Counsel, for the Record I only
25 prepared a single copy today. We're going to get 09:06AM

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1 into several issues about confidentiality, so I'm
2 not going to disseminate a lot of records.

3 MR. EHRICH: Thank you.

4 Q Have you seen Exhibit 1 before today?

5 A Let me take a look at it. I don't believe I 09:06AM
6 have.

7 Q Do you understand you're here pursuant to this
8 subpoena?

9 A Yes.

10 Q Let's talk a little bit about your education. 09:07AM
11 Would you start with your high school graduation and
12 move forward from there and tell us what your
13 education has been.

14 A Okay. I graduated from Harrisonburg High
15 School. 09:07AM

16 Q And Harrisonburg is where?

17 A In Virginia.

18 Q What year?

19 A 1980, and then West Virginia University.

20 Q Did you obtain a degree there? 09:07AM

21 A Yes.

22 Q What was it?

23 A BS in agriculture.

24 Q Is that also referred to as animal science?

25 A I had an animal science major there. 09:08AM

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1 Q Okay. What year did you graduate?

2 A 1984, and I have a masters in business
3 administration from California State University.

4 Q What year?

5 A 2002. 09:08AM

6 Q Anything else?

7 A That's all.

8 Q I understand that you're a certified nutrient
9 management planner; is that correct?

10 A I was a certified nutrient management planner. 09:08AM

11 Q You no longer retain that certification?

12 A That's correct.

13 Q What period of time were you so certified?

14 A In Virginia that date is approximately 1998
15 until 2002. In Texas that date is approximately 09:08AM
16 2002 to 2003.

17 Q In order to maintain that certification, are
18 you required to attend continuing education classes?

19 A While I held that certification, I was
20 required to attend continuing education classes. 09:09AM

21 Q Why is it you are no longer certified today?

22 A My position within the company changed in
23 2003.

24 Q And because of that change, it's no longer
25 needed; is that what I am to assume? 09:09AM

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1 A It's no longer a part of my job function.

2 Q Let's talk a little bit about your employment
3 history. Starting from high school and your college
4 period, were you employed during college?

5 A During college, yes, I worked for Rocco. 09:09AM

6 Q What years did you work at Rocco?

7 A 1979 through '83.

8 Q Is that the only time period that you worked
9 for Rocco?

10 A No. I also worked from 1986 until 1993. 09:10AM

11 Q Tell the court what the full name of that
12 company is.

13 A Rocco, Incorporated.

14 Q What does that company do?

15 A Is the question do or did? 09:10AM

16 Q At the time period you worked either from '79
17 to '83 or '86 to '93, what kind of business did
18 Rocco, Inc., perform?

19 A From 1979 to 1983 I was in the building
20 supplies business on a part-time basis. 09:10AM

21 MS. BRONSON: Vickie Bronson.

22 MR. GARREN: Vickie, is that you?

23 MS. BRONSON: Yes, sir.

24 MR. GARREN: Go ahead and announce your
25 appearance for the Record, please. 09:11AM

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1 MS. BRONSON: Vickie Bronson on behalf of
2 Simmons Foods.

3 MR. GARREN: I'll ask those on the call
4 today -- that we'll invoke the Rule of
5 Sequestration. To that extent, if you need to
6 leave, come or go, whatever you are doing, we need
7 to advise so we can make a Record of when you are
8 present and when you're not, if you would, please.

09:11AM

9 MS. BRONSON: All righty.

10 Q During the '79-'83 period, what did Rocco do
11 as a business?

09:11AM

12 A Rocco was involved in several businesses
13 during that time frame.

14 Q Tell me what they were.

15 A They owned a building supply business and they
16 were in both the chicken and the turkey business.

09:11AM

17 Q When you say they're in the chicken and turkey
18 business, what does that mean?

19 A They produced chickens and turkeys for
20 processing and sale.

09:12AM

21 Q Were they -- was Rocco, Inc., what you would
22 call a vertically integrated company in the chicken
23 and turkey business?

24 A Yes.

25 Q Tell the court what you know that to mean,

09:12AM

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1 vertically integrated.

2 MR. EHRICH: Object to the form.

3 A My understanding of the term vertically
4 integrated means that companies both raise turkeys,
5 process turkeys and sell turkeys or chickens. 09:12AM

6 Q Is it correct in saying that a vertically
7 integrated company basically has the entire process
8 from the egg to the retailer?

9 MR. EHRICH: Same objection.

10 A The company would be involved in that process 09:12AM
11 during each of those stages.

12 Q Did Rocco have contract growers?

13 A Yes.

14 Q And did Rocco itself perform growing turkeys
15 or chickens with its own employees? 09:13AM

16 A During that time frame?

17 Q Yes, or any time frame that you know of.

18 A Yes. Rocco has grown chickens and turkeys
19 during that time frame.

20 Q And that's '79 to '83 or does that include '86 09:13AM
21 to '93?

22 A In both time frames.

23 Q All right. Did you change any positions from
24 your position in building supplies in '79-'83
25 period? 09:13AM

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1 A No, I did not.

2 Q Okay. In '86 to '93 what area in Rocco, Inc.,
3 did you work?

4 A Started out as a breeder flock supervisor and
5 became hatchery manager. Should be hatcheries 09:13AM
6 manager, and then I was a superintendent in the
7 processing plant.

8 Q Tell the court what a breeder flock supervisor
9 does.

10 MR. EHRICH: Object to the form. Rick, are 09:14AM
11 you asking as to Rocco or industry wide? I think
12 that's unclear.

13 Q With regard to your particular duties, what
14 did you for Rocco, Inc., as a breeder flock
15 supervisor, do generally? 09:14AM

16 A As a breeder flock supervisor for Rocco, I was
17 responsible for a number of contract and
18 company-owned breeder flocks.

19 Q What does that mean?

20 A I made weekly visits to the farms, kept track 09:14AM
21 of production and flock health.

22 Q And did you prepare reports for the growers
23 when you would visit those farms?

24 A Reports --

25 Q Did you fill out any forms, leave any 09:15AM

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1 documents with a grower when you made a visit to a
2 farm?

3 A Yes, at times I did.

4 Q How long were you a breeder flock supervisor?

5 A From approximately 1986 to 1989. 09:15AM

6 Q Were there any other duties that you haven't
7 told me about besides what you just described?

8 A No. That was a basic job function in that
9 time period.

10 Q What area in Virginia did you perform the 09:15AM
11 breeder flock supervisor duties?

12 A It was in the area of Harrisonburg, Virginia.

13 Q Is that also referred to as the Shenandoah
14 Valley area?

15 A That's correct. 09:15AM

16 Q Tell the court what you did -- let me ask you
17 this: How many farms did you supervise?

18 A From my recollection, that number in total may
19 have been about ten farms at any one time.

20 Q How many hatcheries did Rocco, Inc., have when 09:16AM
21 you were working for them?

22 A During that time period?

23 Q Yes, sir. When you worked for them from any
24 time period '79 through '93 do you know what number
25 of hatcheries there were? 09:16AM

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1 A During that time period there were two
2 hatcheries.

3 Q And when you were hatcheries manager, what
4 period was that?

5 A 1989 to 1993. 09:16AM

6 Q And were there only two hatcheries during that
7 period?

8 A Yes.

9 Q Tell the -- describe for the court what your
10 duties as hatchery manager for Rocco was. 09:16AM

11 A I managed the two chicken hatcheries for
12 Rocco.

13 Q On a regular daily basis what kind of work do
14 you do in managing it?

15 A We brought in fertile hatching eggs from the 09:17AM
16 farms, and we hatched those and delivered those
17 chicks to producers in the Shenandoah Valley.

18 Q And were those eggs produced by birds owned by
19 Rocco, Inc.?

20 A Yes, they were. 09:17AM

21 Q As a superintendent of processing, tell the
22 court what your duties and responsibilities were.

23 A I was further processing superintendent in the
24 Edinburg chicken plant. That entailed the cut up of
25 broiler chickens, deboning, packaging and shipping. 09:17AM

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1 Q So did you manage or supervise the plant in
2 which -- where that occurred?

3 A What we described as the back half of the
4 plant at that time.

5 Q What is the back half? 09:18AM

6 A The further processing area.

7 Q All right, and further processing is after the
8 bird has already been killed and it's dead, and the
9 meat is being processed for retail or wholesale; is
10 that right? 09:18AM

11 A Yes.

12 Q Was that for the remainder period of time that
13 you were with Rocco, Inc.? What period of time,
14 would be a better question, were you superintendent
15 of processing? 09:18AM

16 A For about a six-month period from late 2002
17 into 2003.

18 Q Okay. When I asked you questions earlier, you
19 established you worked from '79 to '83, '86 to '93.
20 You did not tell me you worked from 2002 to 2003. 09:18AM
21 You're telling me now that you worked from 2002 to
22 '03 in processing for Rocco, Inc.?

23 A I'd like to clarify. When the phone call
24 interrupted the question, we hadn't gotten that far
25 in the questioning. 09:19AM

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1 Q Okay.

2 A I did work for Rocco during another time
3 frame.

4 Q If that happens and you haven't finished your
5 question (sic), would you please direct my attention 09:19AM
6 to that so that you can.

7 A Okay. My understanding was we were working
8 through this in a chronological manner.

9 Q I asked you for what all periods that you've
10 worked. So let's go ahead and finish it. Tell me 09:19AM
11 now, other than the two periods that you've
12 described, tell me about the period 2002 to 2003.
13 Is that the only work you did as superintendent of
14 processing?

15 A Yes, in processing. 09:19AM

16 Q Are there any other periods of time that you
17 worked for Rocco, Inc., that you haven't told us?

18 A Yes.

19 Q What are those?

20 A I worked on a consulting basis during 1997 and 09:19AM
21 then from 1998 until August 27th of 2001.

22 Q All right. During '97 in the consulting
23 period, what were you hired to do?

24 A During that 1997 time period I was doing new
25 housing sales on a contract basis for Rocco. 09:20AM

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1 Q And what does new housing sales mean?

2 A We were building new farms, new turkey
3 production facilities with contract producers.

4 Q Were those production facilities for Rocco,
5 Inc., or for contract growers? 09:20AM

6 A For contract growers.

7 Q Exclusively?

8 A Yes.

9 Q Okay, and what generally did you -- what kind
10 of duties did you perform in conducting new housing 09:20AM
11 sales?

12 A Growers would call me with an interest in the
13 poultry business, and I would go out and explain to
14 them the capital requirements, how the contract
15 worked and expectations from Rocco for the contract 09:21AM
16 producers.

17 Q Did you solicit any growers during the period
18 of time that you did this work?

19 A I'm not sure I understand the term solicit.

20 Q Well, did you go out and make calls to people 09:21AM
21 asking whether they were interested in working as a
22 grower?

23 A Yes. I would follow up on calls that they
24 made into our company.

25 Q And briefly tell us, what would you explain to 09:21AM

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1 a grower the capital requirements would be; what
2 would you basically tell the grower?

3 A I would explain to them the general cost of
4 getting into turkey production.

5 Q And what would that entail? 09:22AM

6 A There would be bids on buildings. They would
7 bid the buildings out and --

8 Q They being who?

9 A The growers and then, you know, for the most
10 part there were bankers involved in that process. 09:22AM

11 Q Did you provide bankers' names or references
12 for the growers to contact?

13 A In some cases.

14 Q With regard to telling them how the contract
15 works, did you provide them copies of contracts that 09:22AM
16 were being used?

17 A Yes.

18 Q And were any of those contracts when signed
19 with the grower, were the terms negotiated with the
20 grower? 09:22AM

21 MR. EHRICH: Object to the form. I think
22 there's a lack of foundation about that.

23 A I'm not sure I understand the term negotiated.
24 We had a standard contract, and we placed turkeys
25 based on the details of that contract. 09:23AM

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1 Q All right. Were any portions of that
2 contract, the terms in that contract negotiated
3 between Rocco and its grower?

4 A The terms in the exact contract were not
5 negotiated.

09:23AM

6 Q Okay. Were there any other consulting duties
7 that you performed besides those that you described?

8 A During the end of 1997 I started to become
9 involved in some environmental training and work for
10 Rocco, I believe 1997.

09:23AM

11 Q Tell me what you did to become environmentally
12 trained.

13 A During that time period I started to attend
14 some meetings. Ended up -- I'm not positive of the
15 date, but I took nutrient management training and
16 certification classes in late 1997, early 1998,
17 during that time frame.

09:24AM

18 Q All right. What meetings did you attend?
19 Describe to the court what those were.

20 A There were meetings being held in that area,
21 extension-type meetings or meetings, state-sponsored
22 meetings with regard to nutrient management.

09:24AM

23 Q When you say nutrient management, is that
24 describing poultry manure, poultry waste; is that
25 what you are referring to as the nutrient?

09:24AM

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1 A The meetings that I attended, some of those
2 had information to deal with poultry litter.

3 Q Tell us what you know litter to be.

4 A Poultry litter is composed of bedding and
5 animal manure that's produced from poultry houses. 09:25AM

6 Q And feathers, urine, would those be included?

7 A They could be.

8 Q Sometimes carcasses or parts of carcasses?

9 A It's possible.

10 Q What do you call bedding material? 09:25AM

11 A There's several different forms of bedding
12 material. Some are wood shavings.

13 Q When you refer to new litter, how do you refer
14 to it?

15 A Bedding is the term I use. 09:25AM

16 Q Do you use that all the time?

17 A For the most part.

18 Q Do you know what the contracts that Rocco used
19 referred to, the term that it used in its contracts
20 for new bedding material? 09:26AM

21 MR. EHRICH: Object to the form.

22 A I've heard the term used as litter and I've
23 heard the term used as bedding.

24 Q Okay, but I'm asking you, do you recall in the
25 contracts that you reviewed with these new growers 09:26AM

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1 what the term was used in the contract referring to
2 new bedding material?

3 A No, and I don't recall the Rocco contract,
4 what that term was in that contract.

5 Q Any other meetings besides extension and 09:26AM
6 state-sponsored nutrient management planning that
7 you attended that you can tell us?

8 A I'm sure during that time frame there were
9 meetings also held by the Virginia Poultry
10 Federation. 09:26AM

11 Q All right, and you would have attended some of
12 those?

13 A Yes.

14 Q All right. Did you attend any other meetings
15 of any other types of associations? 09:26AM

16 A During 1997?

17 Q Any time that you said you were being
18 environmentally trained.

19 A I probably during that time period also in
20 1998 was involved with the National Turkey 09:27AM
21 Federation.

22 Q And did they conduct classes or meetings or
23 conferences that you attended to instruct or educate
24 you on environmental training?

25 A No. The training from the National Turkey 09:27AM

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1 Federation was probably more in the form of
2 conference calls or those type of things instead of
3 face-to-face meetings.

4 Q But in those conference calls, were they for
5 environmental training? 09:27AM

6 A Probably more in the realm of updates instead
7 of training.

8 Q And updates in what area or subjects?

9 A Environmental regulation.

10 Q Would that be state and national regulation? 09:27AM

11 A Both. National Turkey Federation probably
12 works more in the realm of national regulation.

13 Q Now, besides the Virginia Poultry Federation,
14 the National Turkey Federation, are there any other
15 organizations or associations that conducted 09:28AM
16 meetings, conference calls or similar things in
17 which you obtained some type of education with
18 regard to environmental aspects or training?

19 MR. EHRICH: Same time frame?

20 MR. GARREN: Yes. 09:28AM

21 MR. EHRICH: Thank you.

22 A I don't recall, with the exception of the
23 National Poultry Dialogue which went on during 1998.

24 Q Did you attend the National Poultry Dialogue?

25 A Yes, I did. 09:28AM

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1 Q Did you attend all of it?

2 A If the question all is did I attend every
3 meeting of the National Poultry Dialogue, my
4 recollection is that I did attend all those meetings
5 during that time frame. 09:29AM

6 Q Tell the court, if you would, please, what the
7 Dialogue is, and what -- let's start with what was
8 it -- what was its purpose?

9 A My understanding of the purpose of the
10 National Poultry Dialogue was there was a group of 09:29AM
11 industry leaders and trade organizations, and it met
12 around the country at different locations, and it
13 was a fairly open discussion about oncoming
14 environmental regulation.

15 Q What was the subject of that oncoming 09:29AM
16 environmental regulation?

17 A I think there were a number of different
18 subjects.

19 Q I'm sorry. Go ahead.

20 A I think there were a number of different 09:30AM
21 subjects that the Poultry Dialogue had during those
22 meetings, and they covered, you know, poultry litter
23 management, mortality disposal, those types of
24 issues.

25 Q Did it involve water quality aspects of the 09:30AM

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1 environmental concerns?

2 A There probably was some discussion of that.
3 My recollection -- you know, the exact details of
4 that, I can't answer.

5 Q Let me ask you this with regard to your 09:30AM
6 experience in the turkey or chicken business:
7 Managing the nutrients, the litter or the poultry
8 waste as we've referred to it, what's the purpose
9 for doing that management?

10 MR. EHRICH: Object to the form. 09:30AM

11 A The purpose of managing poultry litter is to
12 reduce the risk to water quality and so --

13 Q Go ahead.

14 A That's all.

15 Q And what is the risk you are reducing? 09:31AM

16 A The goal is to reduce the risk of poultry
17 litter causing adverse environmental impacts. I
18 know of no case where that's happened, but certainly
19 the goal is to reduce those risks.

20 Q Is it the -- what is it about the use of the 09:31AM
21 poultry manure that causes a risk to water quality?

22 MR. EHRICH: Object to the form, lack of
23 foundation.

24 A Can you restate that question?

25 Q What is it about the use of the poultry manure 09:31AM

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1 or litter that creates a risk to water quality?

2 MR. EHRICH: Same objection.

3 A Poultry litter is an organic fertilizer, and
4 if it's properly used for that purpose, it doesn't
5 pose a risk to water quality. 09:32AM

6 Q That's not my question. What is it that does
7 pose the risk?

8 MR. EHRICH: Same objection.

9 A I'm not sure I understand the question. Is
10 the question -- 09:32AM

11 MR. EHRICH: Let him pose a question. If
12 you don't understand the question, just tell him.

13 Q What is it about the use of poultry litter or
14 manure that causes or creates the risk that you've
15 described as to water quality? 09:32AM

16 MR. EHRICH: Same objection. Go ahead.

17 A I think you're asking about nutrients, and so
18 I'm not positive if that's what you are asking.

19 Q I'm asking you about what is it with regard to
20 the use of poultry litter that creates a risk to the 09:33AM
21 water quality?

22 A I thought I answered that question. I thought
23 I answered.

24 Q Let me ask it this way. I'll withdraw that
25 and let me ask you this: Is poultry litter or 09:33AM

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1 manure commonly spread on the land in order to be a
2 fertilizer as you described?

3 MR. EHRLICH: Objection to form. Rick,
4 when, where?

5 MR. GARREN: Any time in his knowledge does 09:33AM
6 he know is that a common use of poultry manure or
7 litter to be spread on the land as a fertilizer as
8 you described?

9 A Poultry litter is commonly used as an organic
10 fertilizer. 09:33AM

11 Q And was it done so in the time period that you
12 were involved with Rocco, Inc.?

13 A Yes.

14 Q All right, and do you know that it
15 continued -- that is the continued common use of it 09:33AM
16 even to today?

17 MR. EHRLICH: Same objection. Rick, if you
18 have specific questions, specific locations, ask
19 about that. You're asking these general free
20 flowing questions. 09:34AM

21 MR. GARREN: Just object to the form.
22 That's all you are required to do.

23 A Are you asking -- is this question directed
24 towards Rocco; is that --

25 Q I'm asking you now as to your knowledge from 09:34AM

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1 all your experience in the field, is it true today,
2 as it was when you were working at Rocco, that
3 poultry waste or manure or litter is commonly used
4 and spread on the land as a fertilizer?

5 MR. EHRICH: Object to the form.

09:34AM

6 A I think I already answered that question. The
7 answer is, yes, poultry litter is commonly used as
8 an organic fertilizer.

9 Q My question was to expand the time frame
10 because the first question I was asking you was
11 about when you were at Rocco. I'm asking you since
12 you've been at Rocco, do you know that to be the
13 same practice, the use of poultry litter?

09:34AM

14 MR. EHRICH: Same objection, lack of
15 foundation.

09:34AM

16 A Poultry litter is still commonly used today as
17 an organic fertilizer.

18 Q When you described earlier that industry
19 leaders attended the National Poultry Dialogue, who
20 would you describe as those leaders that were
21 attending?

09:34AM

22 A I'll name some of the groups that I know were
23 there.

24 Q Please.

25 A I'm sure there will be omissions to this. I

09:35AM

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1 just can't remember all of them. The National
2 Turkey Federation, National Chicken Council. I
3 remember the Arkansas Poultry Federation being
4 represented, U. S. Poultry & Egg Association. There
5 were some company representatives, university
6 representatives, and state and federal agency
7 representatives.

09:35AM

8 Q When you say companies, what kind of companies
9 are you referring to as attending as an industry
10 leader?

09:35AM

11 A I know that there were employees there either
12 representing their company or trade groups.

13 Q Did you know whether there was any Cargill,
14 Inc., company representatives there?

15 A I don't recall in 1998 that there were.

09:36AM

16 Q Did you recall whether any Tyson company
17 representatives were there?

18 A There was a Tyson representative there. I'm
19 not positive if they were representing a trade group
20 or their company.

09:36AM

21 Q Do you recall whether there was a Simmons
22 representative present, Simmons Foods?

23 A I don't recall.

24 Q Do you recall whether there was a Peterson
25 Farms --

09:36AM

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1 A Actually I'd like to correct that. I do
2 recall a Simmons person there.

3 Q Do you remember the name of the person?

4 A My recollection is Claud Rutherford was there.

5 Q Are you familiar with a company that's named 09:36AM
6 Peterson that's involved in this lawsuit?

7 A Yes.

8 Q And do you know whether any of their
9 representatives were there?

10 A I don't recall. 09:37AM

11 Q And are you familiar with a company called
12 George's that's a defendant in this company -- in
13 this lawsuit?

14 A Yes.

15 Q All right, and were any of their 09:37AM
16 representatives present?

17 A Not that I recall.

18 Q And with regard to Willow Brook, do you know
19 that company?

20 A Yes. 09:37AM

21 Q Was any of their representatives present?

22 A Not that I recall.

23 Q How long did the Dialogue occur?

24 A My recollection is that it went on in total
25 for a period of about a year. 09:37AM

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1 Q And approximately how many meetings do you
2 recall you might have attended?

3 A I can't recall exactly, but probably there
4 were four or five meetings within that year.

5 Q And were there any reports, memorandums, 09:38AM
6 literature published as a result of the meetings
7 that were conducted?

8 A There was a summation paper put together from
9 that -- from the Dialogue.

10 Q And did you obtain a copy of that summation 09:38AM
11 paper?

12 A I probably had that at the time. I haven't
13 seen it in a long time. I probably did.

14 Q Now, going back, earlier when you said you did
15 some environmental training as a result of this 09:38AM
16 consulting work in the 1997 time frame, what other
17 environmental training have you attended or
18 participated in in addition to what we've talked
19 about, some work in the Dialogue?

20 A We talked briefly about it. I took nutrient 09:39AM
21 management training in Texas.

22 Q All right, and what did that consist of and
23 put a time frame on it, if you would.

24 A I believe the date to be in 2002. I went to
25 Lubbock, Texas and took a week long training course 09:39AM

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1 for Texas nutrient management certification.

2 Q Okay. When you took that course, at the
3 conclusion of it were you then certified to write
4 nutrient management plans?

5 A After I passed the test at the completion of 09:39AM
6 that class, I was certified in Texas.

7 Q All right, and have you in your experience at
8 any time written a nutrient management plan?

9 A The question is ever, just not Texas?

10 Q Not just Texas. You were certified in 09:40AM
11 Virginia and Texas I believe you told me. So with
12 regard to having those certifications, have you at
13 any time written a nutrient management plan?

14 A After I received my certification in Virginia
15 in 1998, I wrote just a couple of plans during that 09:40AM
16 year for contract producers.

17 Q And those contract producers were working for
18 Rocco or someone else?

19 A The contract producers weren't working for
20 Rocco. They were contracted to Rocco. 09:40AM

21 Q They were growing Rocco's birds; correct?

22 A That's correct.

23 Q Okay. Were they growing birds for anyone else
24 besides Rocco?

25 A The producers I wrote the plans for were only 09:40AM

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1 growing for Rocco.

2 Q All right, and you only recall doing two
3 plans?

4 A That's all I recall.

5 Q And were those in the Shenandoah Valley area 09:40AM
6 then?

7 A Yes.

8 Q In 1998 do you recall there was legislation
9 enacted in that area with regard to nutrient
10 management plans? 09:41AM

11 A I don't recall there being legislation enacted
12 in Virginia in 1998.

13 Q Do you recall that there was an ordinance that
14 was enacted with regard to poultry growing in that
15 area? 09:41AM

16 A There was a poultry ordinance in Rockingham
17 County during that time frame.

18 Q Where does Harrisonburg sit?

19 A It's in Rockingham County.

20 Q Did you have any experience or education with 09:41AM
21 regard to that ordinance that was enacted?

22 A Yes.

23 Q Okay. Tell me about what you learned and how
24 you learned it.

25 A My understanding of that ordinance is -- at 09:41AM

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1 the time I understood it, I'm not sure that I can
2 give you a lot of details about it now. It had
3 setbacks from property lines and dwellings.

4 Q Setbacks for what?

5 A For poultry house construction. 09:42AM

6 Q Okay. Did it have manure management
7 requirements in it?

8 A I believe there was a litter management
9 component to that.

10 Q Okay, and were you fully educated on it in 09:42AM
11 order to assist Rocco with its responsibilities and
12 its contract producers in accordance with that
13 ordinance?

14 MR. EHRICH: Object to the form.

15 A I'm not sure I understand the word fully 09:42AM
16 but -- how you are using the word fully, but I
17 understood the basics of that ordinance then.

18 Q Was part of your duties and responsibilities
19 then to advise Rocco with regard to that ordinance
20 and how they or their producers could comply with 09:42AM
21 it?

22 MR. EHRICH: Object to the form, lack of
23 foundation.

24 A I understood the ordinance during that time.

25 Q My question is, was that part of your duties 09:42AM

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1 in order to advise Rocco or the producers of Rocco
2 to be able to comply with it?

3 A Yes. I have helped -- I helped growers during
4 that time frame with education on the ordinance.

5 Q Has there been in your history then any other 09:43AM
6 environmental training that you've received of any
7 sort that we have not already discussed?

8 A Those are the only two certifications that I
9 ever held.

10 Q I didn't ask the question of certification. I 09:43AM
11 asked training.

12 A Well, during the late '90's and early 2000
13 there were a number of different environmental
14 regulation meetings that I attended. I'm not sure
15 if the technical word training or not is applicable, 09:43AM
16 but I attended a lot of meetings during that time
17 frame.

18 Q And at those meetings did you become more
19 educated or more informed about environmental
20 concerns involving poultry growing? 09:44AM

21 MR. EHRICH: Object to the form.

22 A That's a broad question. I learned a lot
23 during that time frame about nutrient management and
24 regulations.

25 Q So it expanded your knowledge in these -- 09:44AM

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1 A During that time frame, yes.

2 Q And can you describe to me, were those
3 meetings or those who conducted those meetings
4 different than the sources you've already described
5 like the National Turkey Federation, Chicken 09:44AM
6 Council, U. S. Poultry & Egg; were there different
7 sources -- let me start over. Tell me who were the
8 people conducting these meetings, these
9 environmental meetings that you described during
10 that time period. 09:44AM

11 A I think I've hit on all of these. There were
12 universities, extension groups in the states.

13 Q So it was more --

14 A Trade organizations at the meetings.

15 Q So it was more similar to the same of what you 09:45AM
16 described that occurred in the Poultry Dialogue,
17 those same kind of trade associations, organizations
18 and universities?

19 A Similar. The Poultry Dialogue was more on a
20 national basis. 09:45AM

21 Q All right.

22 A More of the training I attended was state
23 specific.

24 Q Okay, and were those states Virginia and Texas
25 or others, or tell me what states they were. 09:45AM

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1 A During 1998 or --

2 Q Whenever you obtained the late '90's and early
3 2000 environmental training at these various
4 meetings, and you said they were state specific,
5 what states? 09:45AM

6 A Rocco had birds contracted in Virginia and
7 West Virginia.

8 Q All right. So is that the states that you
9 became knowledgeable about environmental matters?

10 A During the Rocco years, that's correct, and 09:46AM
11 then when we were purchased by Cargill in 2001 --

12 Q Yes.

13 A -- I attended some meetings in the Midwest.

14 Q And where?

15 A We had birds in -- at that time we had birds 09:46AM
16 in Arkansas, Oklahoma, Missouri and Texas.

17 Q And did you attend meetings at all four of
18 those states you just listed?

19 A I don't recall attending meetings in Oklahoma.
20 There were only a few growers in that state, and so 09:46AM
21 I don't recall attending meetings there.

22 Q Okay. You've alluded to it so let's go ahead
23 and talk about it. When was Rocco, Inc., acquired
24 by Cargill?

25 A August of 2001. 09:47AM

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1 Q Were you involved in that negotiation or
2 finalization of that acquisition in any way?

3 A I want to make sure I understand your
4 question. I was -- I was involved in the transition
5 of Rocco to Cargill. 09:47AM

6 Q Okay. Let's talk about that transition then.
7 Do you know whether or not the acquisition was
8 what's referred to as a stock purchase or an asset
9 purchase sale that occurred?

10 MR. EHRICH: Object to the form, legal 09:47AM
11 conclusion.

12 A I believe it was a stock purchase.

13 Q I'm not asking you to guess. If you don't
14 know, you can tell me you don't know, but I'm just
15 asking if you have knowledge yourself of what the 09:47AM
16 sale was.

17 A Okay. The Rocco name was not purchased as a
18 part of the company. So exactly whether that was an
19 asset or stock purchase, I don't know.

20 Q In your MBA training did you learn the 09:48AM
21 different kinds of sales that can occur, assets or
22 stock sales?

23 A I understand the difference in those two
24 terms. Maybe the point to clarify here is that I
25 was environmental affairs manager there, and I 09:48AM

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1 wasn't involved in the accounting or financial
2 transaction.

3 Q I'm not asking about that part of it. You
4 generally know. So let's move on. With regard to
5 the transition from the environmental side, what did 09:48AM
6 you do?

7 A I became aware of the impending purchase
8 several months before the transaction happened.
9 They made me aware of the transaction, so I was -- I
10 helped with some of the detailed things that needed 09:48AM
11 to be done as a part of that transaction --

12 Q Give me some idea what you're talking about.

13 A -- for Rocco. My recollection is that there
14 were a number of items that Cargill wanted to ask
15 questions about, and I helped answer those 09:49AM
16 questions.

17 Q Questions about the environmental aspects that
18 you were in charge of?

19 A Yes, and they were things to do with plants
20 or -- there were a lot of different things on the 09:49AM
21 list. I can't remember all of them but --

22 Q So processing plants, is that what you mean by
23 plants?

24 A Yeah. They were things to do with the fixed
25 assets and things that Cargill had asked about that 09:49AM

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1 needed to be -- questions needed to be answered as
2 part of the closing itself.

3 Q Okay. What was the name of the Cargill entity
4 then that -- let me back up. Did you then work for
5 the Cargill entity that acquired Rocco, Inc., at 09:50AM
6 that time in 2001?

7 A Yes, after the sale in 2001.

8 Q And for what time period did you work with
9 that entity?

10 A That entity was Cargill Turkey Products, 09:50AM
11 Incorporated, and that time frame was probably --
12 I'm going to estimate the time -- about two and a
13 half years --

14 Q Okay.

15 A -- that I worked for that entity. 09:50AM

16 Q Did that entity -- what happened after two and
17 a half years?

18 A The business in total became known as Cargill
19 Value Added Meats, and shortly thereafter Cargill
20 Turkey Production, LLC, became the animal production 09:51AM
21 side of the business.

22 Q So during our testimony and questions today,
23 if I refer to that as CTP or the LLC, that's what
24 I'm referring to. Okay?

25 A Okay. 09:51AM

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1 Q Cargill Turkey Products, Inc., do you know
2 whether or not that company was formed just for the
3 purpose of making this acquisition?

4 A No. It's my understanding that existed before
5 the purchase. 09:51AM

6 Q Was that the name of the company on the check
7 that paid your salary?

8 A I think so.

9 Q And you said that entity continued operations
10 of that old Rocco operation, is that correct, 09:51AM
11 thereafter for two and a half years?

12 A Cargill Turkey Products continued the
13 operation of the Rocco turkey business after that
14 date.

15 Q Do you know whether or not that Cargill Turkey 09:52AM
16 Products, Inc., was in fact a corporation or some
17 other entity?

18 A I think it was an Inc.

19 Q Meaning a corporation?

20 A Yes. 09:52AM

21 Q All right. What happened after the two and a
22 half years that Cargill Value Added Meats came into
23 play?

24 MR. EHRICH: Object to the form.

25 Q Let me ask you this: What is Cargill Value 09:52AM

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1 Added Meats; is it a corporate entity, a
2 partnership, an LLC; do you know?

3 A It's a subsidiary of Cargill, Incorporated.

4 Q And do you know what the reason was that it
5 started operating what was the Rocco facilities
6 after the Turkey Products, Inc., was there?

09:52AM

7 A Cargill Value Added Meats came about. There
8 was a purchase of another company at about the same
9 time that Cargill Turkey Products purchased Rocco,
10 Incorporated, the assets of Rocco, Incorporated.
11 That company was EMMPAK, and so all those pieces
12 came together to be known as Cargill Value Added
13 Meats.

09:53AM

14 Q Was EMMPAK in the poultry business or some
15 other type of business?

09:53AM

16 A They were the further processing business.

17 Q Further processing?

18 A Not necessarily poultry.

19 Q Spell EMMPAK for the Record.

20 A E-M-M-P-A-K.

09:53AM

21 Q Thank you. I don't want to lose track of your
22 personal employment history. Did you then work for
23 Cargill Turkey Production, LLC, after the Value
24 Added Meats?

25 A Yes.

09:54AM

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1 Q Did you work for any other entities besides
2 what you've already described? You started with
3 Rocco and went to Turkey Products, Inc. That
4 changed to Value Added Meats, and then the CTP or
5 Production, LLC. Is that in the correct 09:54AM
6 chronological sequence that you worked for these
7 companies?

8 A Can you say that again so I make sure?

9 Q It starts with Rocco. It then was acquired by
10 Cargill Turkey Products, Inc., which then changed to 09:54AM
11 Cargill Value Added Meats, and then you told me it
12 was Cargill Turkey Production, LLC; is that the
13 correct chronology?

14 A That's correct, and this is where I'm not an
15 accountant and I'm not a financial person. There 09:54AM
16 may have been -- in the opening months of Cargill
17 those assets could have been in a holding company
18 temporarily, and so that's the depth of my knowledge
19 on the subject.

20 Q The opening months, you're talking about at 09:55AM
21 the initial Rocco transition?

22 A Yes, beginning in 2001.

23 Q Do you know the name of the holding company
24 you're referring to?

25 A No. It seems to me it was Shenandoah. 09:55AM

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1 Shenandoah was in the name. It was brief. I'm not
2 sure.

3 Q That's all right. Let's talk about your
4 position. Did your position change when Cargill
5 Turkey Product, Inc., acquired Rocco, position 09:55AM
6 meaning position or title?

7 A When they acquired Rocco, I had been director
8 of environmental affairs for Rocco, and I became an
9 environmental affairs manager for Cargill.

10 Q So did your duties change or just the title 09:55AM
11 that you just referred to?

12 A For a brief time Cargill operated the business
13 as an eastern and western division.

14 Q Which business?

15 A The Cargill Value Added Meats business. 09:56AM
16 Actually at that time it may have been Cargill
17 Turkey Products.

18 Q When you say east and west, is that because
19 you were in Virginia and West Virginia or some other
20 reason? 09:56AM

21 A The previous Rocco operation would have been
22 the eastern division, and the midwestern operations
23 would have been the western division. That lasted
24 briefly, I don't remember, roughly six to twelve
25 months, and then the business consolidated. 09:56AM

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1 Q And was that consolidation then under the name
2 Value Added Meats; is that when that occurred? I'm
3 having a tough time following what you're telling me
4 how things occurred.

5 A I don't know if the timing of those is exact 09:56AM
6 or not. I don't remember.

7 Q Let's talk about your responsibilities and
8 duties in any event. During and after the period
9 that Cargill acquired it, and we go through some
10 name changes, tell me what your duties and 09:57AM
11 responsibilities or titles were as best a chronology
12 as you can.

13 A Okay. Initially I was environmental affairs
14 manager for the eastern division. Very quickly we
15 became one business, and I was environmental affairs 09:57AM
16 manager for the agriculture business.

17 Q So that included both the east and west
18 divisions at that time?

19 A Yeah, and that would have been -- the complete
20 time frame there would have been from August 2001 09:57AM
21 until December 2003, and after December of 2003 I
22 became agriculture operations manager.

23 Q Did your duties change as a result of that?

24 A Yes.

25 Q We've got a notice to take a break here. I 09:58AM

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1 want to come back and we'll pick up and talk about
2 the duty changes after we change the tape.

3 VIDEOGRAPHER: We are now off the Record.
4 The time is 9:57 a.m.

5 (Following a short recess at 9:58 a.m., 09:58AM
6 proceedings continued on the Record at 10:09 a.m.)

7 VIDEOGRAPHER: We are now back on the
8 record. The time is now 10:09 a.m.

9 Q Mr. Maupin, we were talking about your duties
10 and responsibilities. I'm going to back you up just 10:09AM
11 a little bit. As you were a flock supervisor with
12 Rocco, were you -- as part of your employment there,
13 were you evaluated on your work as a flock
14 supervisor in dealing with your contract growers?

15 A Evaluated? 10:10AM

16 Q Let me ask you this: Did you have
17 evaluations?

18 A Performance review; is that the question?

19 Q Yes, performance review, that kind of
20 evaluation? 10:10AM

21 A I'm sure I did. I don't remember the results
22 of that.

23 Q Well, were they in part taking into
24 consideration the quality or the volume of
25 production of birds under your control? 10:10AM

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1 MR. EHRICH: Object to the form.

2 A I'm sure that was part of the discussion. I
3 don't recall the exact details.

4 Q We were talking that in December of '03 you
5 became ag operations manager, agricultural operation 10:10AM
6 manager; correct?

7 A Correct.

8 Q What were the duties and responsibilities of
9 that position?

10 A The agricultural operations manager is 10:11AM
11 responsible for the turkey production that feeds
12 into the Cargill Value Added Meats plants. That
13 includes work with contract producers,
14 veterinarians, nutritionists.

15 Q Did it include environmental work also? 10:11AM

16 A Yes.

17 Q And when you say you also worked with the
18 contract producers, was that -- is that a similar
19 capacity as the flock supervisor responsibilities
20 that you performed earlier at Rocco? 10:11AM

21 A No. It's at a different level.

22 Q Tell me what the difference is.

23 A In our organization we have flock supervisors,
24 and then in most of our locations we have either a
25 breeder or grow-out manager, and then our location 10:12AM

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1 manager is called an agriculture manager.

2 Q So the flock supervisor was under the
3 supervision of the breeder or grow-out manager in
4 that organization?

5 A Yes, depending on which part of the business 10:12AM
6 you're in.

7 Q And the breeder or grow-out managers were then
8 underneath you as the ag operations manager; is that
9 what I'm understanding?

10 A It's an overall agricultural manager at each 10:12AM
11 location.

12 Q Location meaning a complex, or what do you
13 mean by location?

14 A That's correct.

15 Q Tell the court what a complex is in the terms 10:12AM
16 commonly used in the poultry industry.

17 A The term complex involves the processing plant
18 where birds are processed and the associated poultry
19 production, feed milling. In some locations that's
20 the breeder operation and hatchery as well. 10:13AM

21 Q And those are referred to still today as
22 complexes generally or not?

23 A That term is used.

24 Q What term does Cargill use?

25 A Complex is a term that's used, also location. 10:13AM

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1 Operation is another term that's used.

2 Q Okay. After being an ag operations manager --
3 first off how long was that your title?

4 A Up until October of 2007.

5 Q And what change occurred in October of '07? 10:13AM

6 A I was named vice-president of agricultural
7 operations in October of 2007.

8 Q When you were ag operations manager, where was
9 the location or office you worked out of?

10 A Initially when I took over that position, I 10:14AM
11 was in Springdale, Arkansas.

12 Q And then from Springdale, where did you go?

13 A And then Cargill consolidated the meat
14 businesses into Wichita, and I moved to Wichita in
15 May of 2004. 10:14AM

16 Q Now, as a vice-president of agricultural
17 operations, what company are you vice-president of?

18 A Technically I'm actually a vice-president of
19 Cargill Value Added Meats and of Cargill Turkey
20 Production, LLC. 10:14AM

21 Q So you hold two positions as vice-president?

22 A One position, two titles.

23 Q Who pays you a check for the work you perform?

24 A I'm paid by Cargill Turkey Production, LLC.

25 Q Is to your knowledge Cargill Value Added Meats 10:15AM

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1 a legal entity or is it a business unit as Cargill
2 refers to it?

3 MR. EHRICH: Object to the form.

4 A My understanding it's just a business unit.

5 Q What does a business unit mean in Cargill; 10:15AM
6 what does that refer to in Cargill parlance?

7 A I don't know. I don't know about all business
8 units at Cargill.

9 Q I'm really only asking --

10 A There are a number of business units. 10:15AM

11 Q Cargill Value Added Meats, is it an
12 association of various other entities like CTP, LLC?

13 A In Cargill Value Added Meats' business unit,
14 we call that business unit retail.

15 Q All right. 10:15AM

16 A That includes Cargill Turkey Production, LLC.
17 Our plants, there's some distribution as part of
18 that.

19 Q Plant, what are you talking about plant,
20 processing plant or different kind of plant? 10:16AM

21 A Several different kinds of plants, processing
22 plants for turkeys. We have further processing
23 plants that do other types of meat.

24 Q Other than poultry?

25 A Yes. 10:16AM

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1 Q All right.

2 A We have distribution.

3 Q Is distribution considered a plant?

4 A It could be referred that way. In our
5 business a lot of times we use the word distribution 10:16AM
6 center.

7 Q Are those plants owned by a different entity
8 than CTP, LLC?

9 A The businesses that are within our business
10 unit? 10:16AM

11 Q Yeah. I understood you to say the LLC is part
12 of a business unit known as Cargill Value Added
13 Meats; correct?

14 A That's correct.

15 Q And you said there was also plants in the 10:17AM
16 Cargill Value Added Meats. Are those plants owned
17 by the LLC or are they owned by another entity?

18 A Cargill Value Added Meats, the plants are
19 owned by Cargill Value Added Meats.

20 Q Okay, but I understood you to say that's just 10:17AM
21 a business unit, Value Added Meats. Is it actually
22 a corporation?

23 A I believe it's a subsidiary of Cargill,
24 Incorporated. The exact financial transaction
25 there, I'm not -- I'm not knowledgeable about. 10:17AM

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1 Q Vice-president of agricultural operations the
2 title then you hold today; is that correct?

3 A Yes.

4 Q In the past were you ever a grower yourself of
5 poultry or chickens -- of chickens or turkeys, I'm 10:17AM
6 sorry?

7 A I currently am.

8 Q And do you grow for Cargill?

9 A No. I grow for George's.

10 Q Where is the farm located that you grow 10:18AM
11 poultry?

12 A Penn Laird, Virginia.

13 Q It's my understanding you're referred to as a
14 third-generation poultry grower; is that a correct
15 statement? 10:18AM

16 MR. EHRICH: Object to the form.

17 A That's correct.

18 Q So your grandfather and your father each at
19 one time grew poultry?

20 A That's correct. 10:18AM

21 Q Did they also grow for George's or others?
22 Let's just talk about your dad.

23 A I mean, if you want, yeah.

24 Q Your dad, who did he grow for?

25 A He was a Rocco grower. 10:18AM

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1 Q Okay, and have you always grown for George's?

2 A No. I grew for Rocco.

3 Q Rocco and then --

4 A And then George's.

5 Q When did you start growing for George's? 10:18AM

6 A August of 2001.

7 Q And when did you first start growing for
8 Rocco?

9 A 1990.

10 Q So I'm clear on the Record, what do you 10:19AM
11 grow -- what did you grow for Rocco?

12 A We have broiler breeders.

13 Q Was that consistent from the time you did grow
14 for Rocco?

15 A Yes. 10:19AM

16 Q And for George's what do you grow?

17 A Broiler breeders.

18 Q And are those turkeys or are they chickens?

19 A Chickens.

20 Q Turkeys ever referred to as broilers? 10:19AM

21 A I've never heard it referred to that way.

22 Q Okay. I thought I read someplace that
23 somebody was trying to do that and I couldn't
24 understand it but -- so you're not on the day-to-day
25 operation on a farm in Virginia obviously; you have 10:19AM

TULSA FREELANCE REPORTERS
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1 people that work for you; is that correct?

2 A That's correct.

3 Q When you grew broiler breeders for Rocco, what
4 kind of poultry waste is produced from that
5 operation, dry or wet? 10:20AM

6 MR. EHRICH: Object to the form.

7 A Poultry litter is the term we use.

8 Q If you want to use that term, that includes
9 the manure, the urine and whatever else is in the
10 bedding material after it's used; correct? 10:20AM

11 A All the components of bedding and poultry
12 manure in the house I'm referring to as poultry
13 litter.

14 Q Okay. Is that a dry -- do you refer to it as
15 a dry waste or a wet liquid waste -- 10:20AM

16 MR. EHRICH: Object to the form.

17 Q -- in the broiler breeder operations?

18 A We consider it a dry, a dry poultry litter.

19 Q When you operated your growing facilities for
20 Rocco, what did you do with that used litter when it
21 was removed from the houses? 10:21AM

22 MR. EHRICH: Object to the form.

23 A The operations I had in Virginia are not
24 growing operations. They're broiler breeder
25 operations. 10:21AM

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1 Q They produce waste, do they not?

2 A We produce poultry litter.

3 Q My question is, what do you do with the
4 poultry litter that's accumulated in the barns when
5 you are growing? 10:21AM

6 A It's transferred to other farmers in the area
7 for land application.

8 Q All right. Have you ever land applied on your
9 own land in your farm there in Virginia?

10 A Years ago we did. 10:21AM

11 Q What year periods are we talking about?

12 A On the farms I currently have, the last land
13 application was probably more than five years ago.

14 Q Okay, and on --

15 A I'm estimating that. 10:22AM

16 Q On the farms you had before that, did you also
17 land apply the poultry litter?

18 A The farm I had before that is no longer a
19 poultry farm.

20 Q Okay, but when you were operating as a poultry
21 farm and it produced used litter, did you land apply
22 on that farm at any time? 10:22AM

23 A No. There's no land with that farm.

24 Q When you were land applying at your operations
25 when growing for Rocco, did you obtain soil tests 10:22AM

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1 for the land that the litter was put on?

2 A We -- I'm sure we did. I don't remember the
3 results of those, but I'm sure we did.

4 Q The litter that's produced from the barns on
5 the George's growing operation in Virginia now, what 10:22AM
6 happens to it?

7 A The litter is transferred to other farmers in
8 the area.

9 Q Okay, and are you -- is your operation paid
10 for that or do you pay for somebody to remove it? 10:23AM

11 A We currently there -- the people that take the
12 litter clean the houses out for the litter.

13 Q Okay. So it's a wash; you don't pay anything
14 or receive anything; you get your barn cleaned out;
15 is that a fair statement? 10:23AM

16 A That's correct.

17 Q How often does a full clean-out occur in your
18 barns when you operate -- the ones that are
19 operating today?

20 A It's approximately once a year. 10:23AM

21 Q Do you do what's called as cake-outs also
22 besides the full clean-out?

23 A In our operation, we don't cake-out.

24 Q Do you in your operation for George's have to
25 buy the new bedding material, the litter that goes 10:23AM

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1 into the barns or is that furnished by the
2 integrator?

3 A It's furnished by the integrator.

4 Q How many houses do you operate today?

5 A Four. 10:24AM

6 Q And approximately how many birds can you put
7 in a house at a single time?

8 A There are about 6,200 hens and about 700
9 roosters, 6,900 in total per house.

10 Q And that would be for each house? 10:24AM

11 A Yes.

12 Q And how long does a flock exist in the house
13 in a broiler breeder operation?

14 A Currently it's about 46 weeks.

15 Q Who is your immediate supervisor currently 10:24AM
16 today in your -- as the vice-president of
17 agricultural operations?

18 A Steve Willardson.

19 Q What is his title?

20 A He had -- currently he is -- he's general 10:25AM
21 manager of Cargill Value Added Meats Retail. I
22 guess technically he's president. He will become BU
23 leader at the end of the meaning.

24 Q U leader mean unit leader?

25 A Business unit leader. 10:25AM

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1 Q All right. The -- is there one or more people
2 who report directly to you at this time?

3 A More than one person reports directly to me.

4 Q What are the titles of the people that report
5 to you? 10:25AM

6 A Veterinarian, nutritionist, ag manager,
7 breeder manager.

8 Q Let me hand you what's been marked as Exhibit
9 25 and ask you to look at that document, and I'll
10 ask you a couple of questions about it. With regard 10:26AM
11 to the first page of this document, it has a date in
12 the lower left-hand corner of April 17th, 2006.
13 This purports to be some kind of organizational
14 chart. Would you agree?

15 A Yes, it appears to be. 10:26AM

16 Q It shows that Mr. Willardson at the top of
17 that is vice-president and general manager of
18 Cargill Value Added Meats; do you see that?

19 A Yes.

20 Q That's pretty much what you described his 10:27AM
21 position, if I'm hearing you correct; is that true?

22 A Yes.

23 Q Is this chart, as we see it here, accurate as
24 to the operations today?

25 A No, it is not. 10:27AM

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1 Q Tell me where there are changes or differences
2 that I could note on this.

3 MR. EHRICH: Counsel, might I ask that you
4 ask him if he's actually seen this chart before.

5 MR. GARREN: I'm sorry. 10:27AM

6 Q Have you seen this chart before?

7 MR. EHRICH: Thank you.

8 A I have seen this chart before in the past.

9 Q Okay. I'm more concerned about using this as
10 an aid to our describing your organizational 10:27AM
11 structure and you've told me about Steve Willardson
12 and yourself and then you have people that report to
13 you. Let's -- if you'll just point out to me on
14 this chart which -- where there are changes or
15 inaccuracies that need to be made to make it current 10:28AM
16 today.

17 A Okay. To start, Jonathan Spearman, while he's
18 still -- has some line responsibility for feed
19 milling is now considered plant operations manager.
20 Mark Maris reports to him, who is our feed milling 10:28AM
21 manager.

22 Q And is Maris spelled M-A-R-R-I-S or do you
23 know?

24 A M-A-R-I-S.

25 Q And he would fill the position as feed mill 10:28AM

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1 manager?

2 A No. He's in between Jonathan Spearman and the
3 feed mill managers. He's our overall milling
4 manager.

5 Q All right. 10:28AM

6 A Our nutritionist is now Dr. Angela Guaiume.

7 Q Can you spell that for the Record?

8 A Guaiume is G-U-A-I-U-M-E.

9 Q What happened to Greg Engelke?

10 A Greg Engelke still works for Cargill Animal 10:29AM

11 Nutrition. He's always worked for Cargill Animal
12 Nutrition, but we have a staff nutritionist now in
13 our business. She's Dr. Angela Guaiume. On the
14 reports to me, the title under Terry Slagle, he is
15 actually BU breeder manager. There's more to the 10:29AM
16 title. Dr. Dan Karunakaran is no longer with the
17 company.

18 Q Do you know where he is?

19 A He works for a company called Ag Tech.

20 Q And where is that located or where is he 10:30AM
21 located, if you know?

22 A My understanding is he still lives in
23 Virginia. The company is based in Wisconsin.

24 Q All right.

25 A He's been replaced by Dr. Bob Evans, who is a 10:30AM

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1 veterinarian for us.

2 Q All right.

3 A Dr. James Barton is no longer with the
4 company.

5 Q And where did Dr. Barton go? 10:30AM

6 A My understanding is he currently works for
7 the -- he runs a poultry lab in northwest Arkansas,
8 and I'm not positive if that's run by the State or
9 by the poultry federation there.

10 Q And is there someone else then in that 10:30AM
11 position?

12 A Our vet there is Dr. Brian Woo-ming.

13 Q That's W-O-O-M-I-N-G, is it not?

14 A Yes, and Dr. Angela Guaiume, technically while
15 she is dotted lined to our feed mill people, she 10:31AM
16 direct reports to me in this line.

17 Q Is she still in dotted line two so this is in
18 addition to or in lieu of?

19 A She directly reports to me but she is very
20 interactive with our feed mill group. 10:31AM

21 Q All right.

22 A Then we've since added another ag manager who
23 works out of Butterfield, Missouri.

24 Q Is there a name for that person?

25 A His name is Lynn Nutt. 10:31AM

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1 Q Are there any other changes then that you see
2 should be reflected on this to be a current --

3 A There would be -- there would also be a feed
4 mill manager at Butterfield, Missouri that reports
5 to our feed mill operation. 10:32AM

6 Q So since this apparently was drafted in April
7 of '06, Butterfield, Missouri has come online so to
8 speak or been added?

9 A Yes.

10 Q Okay, and is that due to an acquisition within 10:32AM
11 that time frame or just a reorganization?

12 A Acquisition.

13 Q Backing up a little bit, Cargill Turkey
14 Products, Inc., is that to your knowledge a
15 wholly-owned subsidiary of Cargill, Inc.? 10:33AM

16 A It's a wholly-owned subsidiary of Cargill
17 Value Added Meats and in turn Cargill, Inc.

18 Q All right. Would Mr. Willardson be more
19 knowledgeable about corporate structure questions in
20 these legal entities than yourself or if not him, 10:33AM
21 who would it be?

22 A Can I add one more thing about the chart
23 before we start?

24 Q Absolutely.

25 A In technicality the -- myself and the people 10:33AM

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1 below the line of Jonathan Spearman are Cargill
2 Turkey Production, LLC -- are employees of Cargill
3 Turkey Production, LLC.

4 Q So below Spearman, which would include Mark
5 Maris? 10:34AM

6 A Feed mill manager is Mark Maris, Ron Rune
7 (phonetic). The people that report to me are all in
8 Cargill Turkey Production, LLC.

9 Q And Jonathan Spearman is with Value Added
10 Meats then? 10:34AM

11 A That's correct.

12 Q Should there be lines drawn from you directly
13 to those boxes where you have ingredient purchasing,
14 feed mill manager and nutrition?

15 A They're dotted lines, yes. 10:34AM

16 Q They're dotted lines, okay. Any other
17 correction you see there?

18 A No. I think that's all.

19 Q Now, my question was, with regard to corporate
20 structure and the legal entities that make up that 10:35AM
21 corporate structure, is Steve Willardson the person
22 most knowledgeable to your knowledge or someone
23 other than him to answer questions on that area?

24 A On the area of the business --

25 Q The business that either directly or 10:35AM

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1 indirectly deals with the poultry production for
2 Cargill.

3 A I have the understanding of the poultry
4 production business. Steve Willardson is my boss.
5 He certainly has some understanding of that. 10:35AM

6 Q So he would have some understanding of those
7 above him as far as you know?

8 A I'm not sure I understand the question.

9 Q Who in the Cargill entities would have the
10 most knowledge with regard to the overall Cargill 10:35AM
11 structure, its organizational structure and legal
12 entities that make that up?

13 A Who in our business?

14 Q Yeah. Who at Cargill; how far up do we have
15 to go to find someone who knows all about the 10:36AM
16 Cargill structure, if you know?

17 A To find somebody that knows about all Cargill
18 business units and structure, that would probably
19 need to be somebody in Minneapolis.

20 Q Do you have a name of who you think that might 10:36AM
21 be?

22 A I don't know who the exact contact would be
23 for that.

24 Q Let's go to the second page of this Exhibit
25 25, and it reflects what is called an environmental 10:36AM

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1 management system. Have you seen this document
2 before?

3 A I don't remember seeing this document before.

4 Q Have you heard of that term, environmental
5 management system, complex team structure? 10:36AM

6 A Yes. I don't know that I've heard the term
7 complex team structure, but I've heard of the
8 environmental management system.

9 Q What does that mean to you?

10 A The environmental management system is, to my 10:36AM
11 understanding, within our company a part of the
12 process to gain ISO 14001 status.

13 Q Tell us what that is, and that's capital I,
14 capital S, capital O, 14; is that correct?

15 A Yeah, 14001. 10:37AM

16 Q 14,001, all right.

17 A I don't know a lot of details about ISO 14001.

18 I know it's an international quality metric doing
19 business internationally. It's commonly used and
20 commonly referred to, and so I know as part of that 10:37AM
21 process, the environmental management system flows
22 into that process.

23 Q All right. Do you know whether or not the
24 structure that you see here is accurate, or do you
25 have any opinion about that? 10:38AM

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1 MR. EHRICH: Object to the form.

2 A I don't know if it's accurate. It's a
3 local -- this appears to be a local structure for a
4 particular complex.

5 Q And that complex is which one; can you tell? 10:38AM

6 A From the names on this list, it appears to be
7 Springdale, Arkansas.

8 Q Okay.

9 A I don't know about the exact structure if it's
10 correct or not. 10:38AM

11 Q Is Larry Dutton still employed by Cargill or
12 Cargill entities?

13 A To my knowledge he is.

14 Q Does Cargill Turkey Products, Inc., still
15 exist or has it evolved into Cargill Value Added 10:38AM
16 Meats now?

17 A My understanding is it's Cargill Value Added
18 Meats now.

19 Q So you don't believe that Turkey Products,
20 Inc., still exists? 10:39AM

21 A I don't know the answer to that question.

22 Q Do you know who the other officers are of
23 Cargill Value Added Meats besides Mr. Willardson?

24 A Officers of the company other than Mr.
25 Willardson and myself? 10:39AM

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1 Q Okay. Because you're vice-president also;
2 correct?

3 A Correct.

4 Q All right. Other than the two of you?

5 A Yes, I know who they are. 10:39AM

6 Q Tell me who they are and their position.

7 A Andy Southerly is our vice-president of plant
8 operations. Dave Barocco is vice-president of
9 sales. Kevin Sheehan is vice-president of our
10 retail business. Peter Brown is a vice-president of 10:40AM
11 our deli business.

12 Q Is David Rocco connected to the Rocco, Inc.?

13 A It's Barocco.

14 Q Barocco, I'm sorry.

15 A Barocco, yeah, and then I would -- we have a 10:40AM
16 controller who is Trevor Stall.

17 Q Any others?

18 A There are a number of assistant
19 vice-presidents and those things. I didn't know the
20 level of detail you want to get to. 10:41AM

21 Q No, that's fine. Do you know what month the
22 actual transition occurred into Cargill Turkey
23 Production, LLC? It was in 2004; correct?

24 A Correct.

25 Q Or a quarter period as opposed to a month, if 10:41AM

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1 you can give me --

2 A My recollection is May or June.

3 Q All right. Cargill Turkey Production, LLC,
4 has operations in Arkansas, Missouri, Texas and
5 Virginia and now Missouri; is that correct, or are
6 there more?

10:42AM

7 A Value Added Meats, you're saying?

8 Q Well --

9 A Restate the question.

10 Q Cargill Turkey Production, LLC, does it have
11 operations or are those all referred to as Value
12 Added Meat operations?

10:42AM

13 A The Cargill Turkey Production, LLC operations
14 are in Texas, Arkansas, Missouri and Virginia.

15 Q And the new operation in Butterfield,
16 Missouri, is it underneath Cargill Turkey
17 Production, LLC, or a different entity?

10:42AM

18 A Cargill Turkey Production, LLC.

19 Q All right. So we would include Missouri. Are
20 there any other states besides those five that
21 Cargill Turkey Production, LLC, operates poultry
22 business?

10:42AM

23 A No.

24 Q Do you know a company named Cargill Meat
25 Solutions Corp?

10:43AM

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1 A Yes, I know that name.

2 Q Where does that fit in the scheme or structure
3 above Cargill Turkey Production, LLC?

4 A Cargill Meat Solutions was the previous name
5 for the platform that our business unit operates 10:43AM
6 under within Cargill.

7 Q Is -- what is the current platform name?

8 A Cargill Animal Protein.

9 Q And is that all simply a name change to your
10 knowledge? 10:44AM

11 A Yes, and it incorporates our overseas poultry
12 operations.

13 Q All right, and Cargill Meat Solutions, which
14 is now Cargill Animal Protein, is it owned directly
15 by Cargill, Inc., or is there another entity between 10:44AM
16 it and Cargill, Inc.?

17 A I believe that that platform reports into
18 Minneapolis directly.

19 Q All right. When Cargill Turkey Production,
20 LLC, came into existence and acquired Rocco, where 10:45AM
21 was its headquarters?

22 A When Cargill Turkey Production, LLC --

23 Q Came into existence in May or June of '04,
24 where was its headquarters?

25 A In June of '04, we had already moved to 10:45AM

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1 Wichita.

2 Q Is that the first headquarters that it had,
3 Cargill Turkey Production, LLC?

4 A Yes, to my knowledge.

5 Q Were there ever an entity that headquartered 10:45AM
6 in Springdale?

7 A A Cargill entity?

8 Q Yes, sir.

9 A The Cargill Turkey Products business operated
10 from Springdale. 10:45AM

11 Q As its headquarters, principal place of
12 business?

13 A For that business unit it did, yes.

14 Q And you're talking about a business unit
15 again; correct? 10:46AM

16 A Yes.

17 Q That got acquired by Cargill Turkey
18 Production, LLC; correct?

19 A No.

20 Q Okay. Correct me then. 10:46AM

21 A Cargill Turkey Products, Incorporated, became
22 Cargill Value Added Meats.

23 Q Okay. When we went from Rocco to Cargill
24 Turkey Production, LLC, and then to Cargill Value
25 Added Meats, did the employees generally stay the 10:46AM

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1 same, the title above them changed as to where they
2 were operating out of?

3 A On the change from Cargill Value Added Meats
4 to Cargill Turkey Production?

5 Q Yes, sir. You can start there. 10:46AM

6 A The employees stayed the same.

7 Q All right, and so I'm trying to understand.
8 Did you ever receive a check from Cargill Turkey
9 Production, LLC, as part of your salary?

10 A Yes. 10:47AM

11 Q Okay, and you receive a check today from
12 Cargill Turkey Production, LLC; correct?

13 A That's correct.

14 Q Before that time --

15 A I'll correct you. It's actually direct 10:47AM
16 deposit. I don't receive a check.

17 Q That's a technicality, but I'm trying to find
18 out who the person or company that's paying you.
19 Before you received your payments from Cargill
20 Turkey Production, LLC, what was the entity paying 10:47AM
21 you?

22 A My recollection is that it was Cargill Turkey
23 Products paid me and then Cargill Value Added Meats.

24 Q All right.

25 A Then Cargill Turkey Production, LLC. 10:47AM

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1 Q In that order?

2 A That's my recollection, yeah.

3 Q All right. When things were consolidated and

4 headquarters moved to Wichita, what was considered

5 to be the headquarters and principal place of

10:48AM

6 business for the poultry business before Wichita?

7 A Cargill has several poultry businesses.

8 Q So there were several locations, is that what

9 you're telling me, for principal places of business?

10 A For Cargill's poultry businesses?

10:48AM

11 Q Yes.

12 A There were several principal places of

13 businesses.

14 Q Tell me those places.

15 A I don't know that I can even name those.

10:48AM

16 There was an egg business. There's overseas

17 poultry.

18 Q I'm talking about within the United States

19 right now.

20 A There's an egg business that's based somewhere

10:48AM

21 in the Minneapolis area.

22 Q All right.

23 A And our turkey business, which is based in

24 Wichita.

25 Q Okay. Before the Wichita headquarters was set

10:48AM

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1 up, where are the other locations that would have
2 been the head, if you will, of those operations, the
3 head location or principal place of business?

4 A Before it was located in Wichita, the turkey
5 business operated from Springdale, Arkansas. 10:49AM
6 Previous to that it was in Memphis, Tennessee.

7 Q Were people relocated from Memphis to Wichita
8 when that change occurred?

9 A No. The people that were with our poultry
10 business in Memphis relocated to Springdale. 10:49AM

11 Q All right, and that's where they are then
12 today generally speaking?

13 A No. That happened in the early '90's.

14 Q Okay.

15 A And then people that were in our corporate 10:49AM
16 office that moved with the business moved in 2003 to
17 Wichita for the most part.

18 Q From Springdale to Wichita?

19 A Yes.

20 Q All right. Do you know a gentleman by the 10:50AM
21 name of H. Doyle Morrow?

22 A Yes, I know who that is.

23 Q Tell me who he is. How do you know him?

24 A He -- when I first met him, he was our ag
25 manager in California, Missouri. 10:50AM

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1 Q Ag manager?

2 A Ag, yes.

3 Q And did his position change -- when was that
4 time period you say you first met him?

5 A I probably first met him in the late 1990's. 10:51AM

6 Q Did his title or position change after that?

7 A Yes. He later took the ag manager job in
8 Texas.

9 Q Approximately when would that be?

10 A I don't recall the date. 10:51AM

11 Q Is he still there in Texas today?

12 A He still lives in Texas.

13 Q He's no longer with the company?

14 A He's no longer with the company, that's
15 correct. 10:51AM

16 Q Do you know when he left the company?

17 A I don't know exactly what that date is, no.

18 Q Were you ever his supervisor?

19 A No.

20 Q Was he ever your supervisor? 10:52AM

21 A No.

22 Q Did he have any obligations in the
23 environmental area of operations?

24 A As agricultural manager, he had some
25 responsibilities in that area. 10:52AM

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1 Q Is that similar to what yours were when you
2 were ag manager?

3 A I was never ag manager.

4 Q I'm sorry, I thought you were.

5 A I was ag operations manager. 10:52AM

6 Q Okay, and that's different than ag manager?

7 A Yes.

8 Q Ag operations manager in the structure, would
9 that be above the ag manager?

10 A Yes, that's correct. 10:52AM

11 Q But he would have some -- he, meaning Mr.
12 Morrow, would have had some responsibilities in the
13 environmental area?

14 A Yes.

15 Q And that environmental area would have been 10:52AM
16 concerned with the -- including handling and
17 disposing of poultry litter?

18 A In his role as ag manager with contract
19 growers, he would have had more responsibility in
20 the area of education or helping growers understand 10:53AM
21 regulation. He probably had some company farms that
22 were under his direction as well --

23 Q Okay.

24 A -- as ag manager.

25 Q What was his reputation as an employee of 10:53AM

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1 Cargill entities?

2 MR. EHRICH: Object to the form.

3 A I don't know that I can answer that. He
4 didn't work for me. I mean I --

5 Q You don't know whether he was well respected 10:53AM
6 or not?

7 MR. EHRICH: Same objection.

8 A I don't know. He was a long-term employee of
9 the company but, you know, I never did performance
10 reviews on him or anything of that matter. I know 10:53AM
11 him. I know who he is. I mean, I didn't have a
12 problem with him.

13 Q Right.

14 A Is that --

15 Q Are you familiar with a company named Harmony? 10:54AM

16 A Yes.

17 Q Tell me what you know about that company and
18 its name.

19 A I think there are a number of companies called
20 Harmony. 10:54AM

21 Q Harmony Products, Inc., are you familiar with
22 that one?

23 A Yes.

24 Q Tell me what you know about that company and
25 what it does. 10:54AM

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1 A If we're talking about the same Harmony
2 Products that we work with in Virginia as a part of
3 a fertilizer business --

4 Q Okay.

5 A -- is that the Harmony you are referring to? 10:55AM

6 Q Are there others that you know of?

7 A I think there are a number of businesses
8 called Harmony.

9 Q My question is only concerning those that you
10 know Cargill has had any operations with or 10:55AM
11 ownership of. So if we can limit it to that area, I
12 don't care about some third-party company. Okay?

13 A Okay. That's the only Harmony I know of, the
14 one we worked with some in Virginia.

15 Q In fact, it was owned by Cargill Turkey 10:55AM
16 Products, Inc., at some time, was it not?

17 A It was a small piece of that plant purchased
18 as a part of the acquisition of Rocco in 2001.

19 Q So was it -- so the plant that was acquired
20 was originally owned by Rocco? 10:55AM

21 A Rocco was a minority shareholder in that
22 company.

23 Q In Harmony?

24 A Yes.

25 Q All right, and so the acquisition of Rocco 10:56AM

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1 moved that ownership interest into Cargill entities;
2 correct?

3 A That's correct.

4 Q And who else was the owner besides Rocco just
5 prior to the acquisition? 10:56AM

6 A There were -- the principal there was an
7 attorney named Tom McCandlish.

8 Q Can you spell his last name?

9 A M, little C, big C-A-N-D-L-I-S-H.

10 Q Okay. Any other owners of that Harmony entity 10:56AM
11 with Rocco besides the attorney, Mr. McCandlish?

12 A There were three or four employee owners, a
13 couple of investors.

14 Q All right. What was the purpose of the plant;
15 what function did it perform? 10:56AM

16 A The plant in Harrisonburg was built to take
17 poultry litter and turn that into high quality
18 granular fertilizer.

19 Q And was it still operating at the time of the
20 acquisition by Cargill in the '80's? 10:57AM

21 A Yes.

22 Q And does it continue to operate today?

23 A No.

24 Q When did it go out of operation, if you know?

25 A My recollection is it was sometime in 2003. 10:57AM

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1 Q Did you have anything to do with its
2 operations prior to 2003, meaning the plant
3 operations?

4 A I didn't have anything to do with plant
5 operations there. As part of our small percentage 10:57AM
6 of ownership, I was on the board.

7 Q Of Harmony?

8 A Of the plant in Harrisonburg.

9 Q Okay. Was that plant called the Harmony?

10 A Plant was called Harmony but that was only 10:57AM
11 part of the business they had.

12 Q Okay. What was the other part of the business?

13 A They had a sales office. I think they had
14 some things that were third-party manufactured for
15 them. 10:58AM

16 Q And the sales were fertilizer sales?

17 A Yes.

18 Q Okay. How many were on the board when you
19 were sitting on the board?

20 A My recollection is there were seven. 10:58AM

21 Q All right. Why did it cease operations?

22 A The plant wasn't profitable.

23 Q Do you know how long it had been in operation
24 prior to Cargill's acquisition?

25 A I believe it was several years. May have 10:58AM

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1 started production in late 2000. That sticks in my
2 mind.

3 Q And were you on the board the entire time of
4 its operation?

5 A Yes. 10:58AM

6 Q Were you involved with the finances or numbers
7 that would have been generated to know whether it
8 was profitable or not?

9 A No. I didn't have anything to do with
10 finances there. 10:59AM

11 Q Did you get reports as a board member with
12 regard to its profitability or lack thereof?

13 A It's possible I did see reports on the
14 profitability of that plant. I know that the plant
15 wasn't making money. 10:59AM

16 Q What was the source of the poultry litter that
17 went to the plant for processing?

18 A Contract growers in the Virginia, West
19 Virginia area.

20 Q How were they -- how did they become involved 10:59AM
21 in providing their litter to the plant; how did that
22 come about?

23 A We had at Rocco asked our growers if anyone
24 was interested in selling litter to the plant, and
25 there were a number of growers that had interest in 11:00AM

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1 that.

2 Q Did Harmony Products then buy the litter from
3 the growers or did they simply remove it from the
4 house at no charge, if you know?

5 A They would buy the litter is my understanding. 11:00AM

6 Q Who would arrange for the clean-out operation
7 to get it to the plant; was that a Harmony
8 obligation or a grower obligation?

9 A Harmony hauled the litter.

10 Q Was Rocco responsible for coming up with the 11:00AM
11 idea to set up the plant initially or was there some
12 other person or entity?

13 A No. Tom McCandlish brought the idea to Rocco.

14 Q Is McCandlish to your knowledge involved in
15 any entities of Cargill today? 11:00AM

16 A Not to my knowledge.

17 MR. EHRICH: Counsel, may I ask you to
18 clarify? You asked today. I didn't hear testimony
19 that he was ever involved in a Cargill entity.

20 MR. GARREN: I'll clarify it then. 11:01AM

21 Q Has he ever been involved other than his
22 ownership in Rocco -- let me back up. When Rocco --
23 when the plant was acquired by Cargill entities, was
24 McCandlish paid and removed from his position as
25 owner; do you know? 11:01AM

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1 A No, not to my knowledge.

2 Q So he stayed involved when Cargill entities
3 bought the Harmony from Rocco?

4 MR. EHRICH: Counsel, might I interject?

5 MR. GARREN: Sure. You can clarify what 11:01AM
6 the transaction --

7 MR. EHRICH: Well, I'm not sure I can, but
8 with all due respect, I'm not sure your summary is
9 accurate as to Mr. Maupin's testimony. So I don't
10 mean to be argumentative but I just want the Record 11:01AM
11 to be clear.

12 MR. GARREN: I'll back up.

13 MR. EHRICH: I do not believe that Mr.
14 Maupin's testimony was that Cargill acquired
15 Harmony. What I heard was Rocco had a minority 11:02AM
16 interest in Harmony and that minority interest was
17 transferred to Cargill. I don't mean to be
18 argumentative. I just want a clear Record.

19 MR. GARREN: I agree with you, and I
20 probably over generalized that acquisition. 11:02AM

21 MR. EHRICH: We all did.

22 Q So to the extent when Rocco sold its assets,
23 including this plant, to the Cargill entity that
24 acquired it, did McCandlish continue to be involved
25 or did he leave at that time? 11:02AM

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1 A He remained an owner of Harmony after Cargill
2 acquired those assets in the Rocco acquisition.

3 Q And did he stay until its demise, if you will,
4 or closing, or did he leave before it closed?

5 A To my knowledge he was still there. 11:02AM

6 MR. EHRICH: Thank you for the
7 clarification, Counsel.

8 Q Is there any other similar plant that Cargill
9 entities have an interest in today similar to what
10 the Harmony plant did in Virginia? 11:02AM

11 A The term similar is hard for me to understand.
12 Cargill, as a part of its interest in Mosaic, is in
13 the fertilizer business, and I don't have a lot of
14 knowledge of that.

15 Q My question is not directed at Mosaic so we 11:03AM
16 can exclude that. Is there any other similar plant
17 that you're aware of that operates or is proposed to
18 operate in Arkansas that would transform poultry
19 litter to a different type of fertilizer?

20 A Not to my knowledge today. 11:03AM

21 Q Okay. Do you know Timothy Oolman,
22 O-O-L-M-A-N?

23 A Yes, I know who he is.

24 Q Does he work with Cargill entities today?

25 A I haven't seen him for a long time. He did 11:03AM

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1 the last time I saw him. So I assume -- I don't
2 want to assume anything. I don't know.

3 Q That's fine. I'm only asking what you
4 personally know. When you last saw or knew him,
5 where did he work? 11:04AM

6 A He was in Minneapolis.

7 Q And do you know what his position was when you
8 knew it last?

9 A I don't know his exact title.

10 Q Okay, and do you know a Dean Fairchild? 11:04AM

11 A Yes.

12 Q And is he still with Cargill entities?

13 A The last time I talked to him he was with
14 Mosaic.

15 Q Barry Levins, do you know that person? 11:04AM

16 A I've met Barry Levins.

17 Q And what is his position, if he's still with
18 Cargill today, if you know?

19 A I would assume he is with Mosaic, but I don't
20 know. I haven't talked to him in a long time. 11:04AM

21 Q Ian Purtle, P-U-R-T-L-E, do you know that
22 person?

23 A He's with Cargill in Minneapolis.

24 Q Do you know what his title or position is?

25 A Not exactly, I don't know. 11:04AM

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1 Q Gerald Duncan, do you know that person?

2 A Yes.

3 Q And tell me, is he still employed with Cargill
4 entities?

5 A Yes, he is. 11:05AM

6 Q And do you know what position or where he's
7 located?

8 A He's in the process this week of becoming our
9 breeder hatchery manager in Gentry, Arkansas.

10 Q What is he now before the breeder hatchery 11:05AM
11 manager?

12 A He's a grow-out manager in California,
13 Missouri.

14 Q Do you know Jim Ward?

15 A Yes. 11:05AM

16 Q What's his position or title?

17 A He's retired.

18 Q All right. When he retired, what was his
19 position?

20 A He was our housing coordinator in Springdale, 11:05AM
21 Arkansas.

22 Q How long ago did he retire approximately?

23 A Last December, 2007.

24 Q Do you know Roger Eckhoff, E-C-K-H-O-F-F?

25 A Yes. 11:06AM

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1 Q What does he do for Cargill?

2 A He's our agricultural manager in California,
3 Missouri.

4 Q Christy Puffenbarger, P-U-F-F-E-N-B-A-R-G-E-R?

5 A I know her. 11:06AM

6 Q Where does she work?

7 A She's no longer with Cargill. She works for
8 Nicholas.

9 Q And what did she do prior to her leaving
10 Cargill? 11:06AM

11 A She was agricultural manager in Harrisonburg,
12 Virginia.

13 Q Jesse Mahan, M-A-H-A-N, do you know that
14 person?

15 A Yes. 11:06AM

16 Q What does that person do for Cargill or did?

17 A Years ago he was grow-out manager in Ozark,
18 Arkansas. That's how I know him.

19 Q Is he still with Cargill today?

20 A No, he's not. 11:06AM

21 Q Ira Brister, B-R-I-S-T-E-R, do you know what
22 he does for Cargill?

23 A He's not with Cargill anymore.

24 Q What did he do?

25 A He was -- he had a number of different jobs at 11:07AM

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1 Cargill. His last job was ag manager in Waco,
2 Texas.

3 MR. GARREN: We need to take another break
4 to change tapes. We'll come back in five minutes.

5 VIDEOGRAPHER: We are now off the Record. 11:07AM
6 The time is now 11:06 a.m.

7 (Following a short recess at 11:07
8 a.m., proceedings continued on the Record at 11:17
9 a.m.)

10 VIDEOGRAPHER: We are now back on the 11:17AM
11 Record. The time is now 11:16 a.m.

12 Q Mr. Maupin, I'm going to change subjects on
13 you again. Let me ask you about the turkey
14 federation, the National Turkey Federation. Is it
15 true that in the past you have represented Cargill 11:17AM
16 in that entity?

17 A Yes, I have.

18 Q Do you still represent Cargill in that entity
19 today?

20 A I serve on one committee, the live production 11:17AM
21 committee.

22 Q Do you still -- do you represent Cargill at
23 the National Turkey Federation in that position?

24 A I'm actually on the -- I'm actually on the --
25 they have a large board of directors. I'm actually 11:18AM

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1 on the board of directors there.

2 Q You're on the board of the National Turkey
3 Federation; correct?

4 A They have a large board, several people from
5 each turkey-producing area. 11:18AM

6 Q Okay. My question to you, though, is you're
7 on the board of the National Turkey Federation?

8 A Yes.

9 Q And were you selected by Cargill to affiliate
10 with the National Turkey Federation? 11:18AM

11 A Yes.

12 Q And was there an individual or group of
13 individuals that made that selection for you to --

14 A There's a nomination process and then there's
15 a vote of the members of the NTF. 11:19AM

16 Q Of NTF?

17 A Yes.

18 Q Okay, but at Cargill, how were you selected
19 from people at Cargill to then become a
20 representative with National Turkey Federation for 11:19AM
21 Cargill?

22 A The members -- the National Turkey Federation
23 is run by an executive board, and so my name was
24 probably put forth by one of the Cargill people on
25 the executive board. 11:19AM

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1 Q Okay, and so there was a Cargill
2 representative on the executive board of NTF is what
3 you are saying?

4 A Yes.

5 Q Do you know who that person or persons would 11:19AM
6 be?

7 A At the time I went on the board it was
8 probably John O'Carroll. Currently I think it's
9 Steve Willardson.

10 Q All right. So in your past -- you're 11:19AM
11 currently on a committee of live operations. In the
12 past did you hold other types of positions with the
13 National Turkey Federation or participate in other
14 types of duties or responsibilities?

15 A I've worked with the environmental committee 11:20AM
16 there.

17 Q When was that period?

18 A Back in the late '90's, early 2000 time
19 period.

20 Q And you were an employee of Cargill at that 11:20AM
21 time?

22 A Rocco and then Cargill.

23 Q All right. Any other committees besides live
24 ops, live operations, and the environmental
25 committee? 11:20AM

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1 A No. That's the only two I've worked with with
2 NTF.

3 Q Any positions -- besides being on the board,
4 have you held any other types of positions or
5 offices? 11:21AM

6 A With the NTF?

7 Q With NTF.

8 A No. It's -- I was probably the head of the
9 environmental committee at one period of time was
10 the only office I really held there other than the 11:21AM
11 ones we've described.

12 Q When you were there at NTF, were you speaking
13 on behalf of Cargill; I mean you're there to
14 represent Cargill when you are with the NTF?

15 A Yes. Most of the work I do with them now is 11:21AM
16 done by conference call.

17 Q But in the past when you were participating
18 with NTF, you were doing it there on behalf of
19 Cargill, were you not?

20 A I have, yes. 11:21AM

21 Q And tell the court a little bit about what the
22 National Turkey Federation is, what it does.

23 A National Turkey Federation is an industry
24 trade group. Most of the turkey companies in the
25 United States are members, and they lobby on behalf 11:22AM

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1 of the turkey business and growers in the United
2 States.

3 Q Okay, and does their lobbying include federal
4 and state levels?

5 A More federal than state. 11:22AM

6 Q Do they assist state poultry federations,
7 state turkey federations in lobbying efforts, if you
8 know?

9 A They do if asked.

10 Q Say that again. 11:22AM

11 A They do if they're asked I think.

12 Q Okay. Let me hand you a document, Exhibit No.
13 16, and tell me if you've seen this document before.

14 A I have seen this before.

15 Q Parts of this document you have seen in 11:23AM
16 looking through it are both typed and there are
17 handwritten portions. Do you recognize that to be
18 your handwriting?

19 A No, I do not.

20 Q Do you know who would have put that 11:23AM
21 handwriting into this document it looks like to
22 complete what was a bad copy, photocopy?

23 A No, I don't. The copies I've seen of this are
24 not handwritten.

25 Q It was a complete typewritten? 11:24AM

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1 A Yes.

2 Q Do you know whether or not that copy is still
3 somewhere where you can locate it?

4 A I don't know. I probably have it somewhere
5 but I don't know. 11:24AM

6 MR. GARREN: If it exists, Counsel, we
7 would ask that you locate it and provide it so that
8 we could have it if we don't already have it. I
9 don't know that we have a fully typed copy that I've
10 seen, so -- 11:24AM

11 MR. EHRLICH: I'm happy, Counsel, to, you
12 know, to review where this exhibit came from to
13 assure that we've done our reasonable best to find
14 this document and produce it. To my knowledge we've
15 done that, but we'll retrace our steps. 11:24AM

16 Q Who prepared this document, except for the
17 handwritten portion; assuming it was all typed out
18 as seen in the past, who actually prepared this
19 document; do you know?

20 A This document as it was prepared for me was 11:25AM
21 done by members of the staff of the National Turkey
22 Federation and National Broiler Council.

23 Q Did you participate in authoring any portion
24 of this document?

25 A No, I didn't author the document. 11:25AM

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1 Q Or any portion of it?

2 A I don't recall that I authored any portion of
3 it. I reviewed the document.

4 Q And did you make any changes at any time with
5 regard to what was offered to you? 11:25AM

6 A I don't recall.

7 Q Is this document -- this document has a draft
8 on the front page, so do you know whether or not
9 there was a final version of this document?

10 A There certainly was a final version as I 11:26AM
11 presented to the Senate Agricultural Committee in
12 1998.

13 Q When you presented to that committee in 1998,
14 did you simply read from that final version?

15 A Yes, I did. 11:26AM

16 Q Do you know whether or not in looking at this
17 document there were changes made -- there's a fax
18 indicator at the top, a header, March 31 of '98, and
19 it looks like March 30 has been knocked off. Do you
20 remember, was there any substantive changes to this 11:26AM
21 document after March 31st until April 2 at your
22 presentation, if you know?

23 A I don't know. There are a couple of dates up
24 here. I can't read one of them. I don't recall the
25 dates. 11:27AM

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1 Q My question to you is --

2 A I'm not sure if it's correct.

3 Q -- do you know whether there were any
4 substantive modifications to this document, Exhibit
5 No. 16, to that which you spoke and read to the
6 committee in April of 1998?

11:27AM

7 A I'd like to preface it that I don't know.
8 There's so many sections of this that are
9 handwritten, I'm making the assumption that it's the
10 same document that I saw at that time.

11:27AM

11 MR. EHRICH: Well, he's not asking you to
12 assume. If you need some time to look at this to
13 answer his questions, feel free to do that, if Mr.
14 Garren wants you to do that. Counsel --

15 Q Let me ask you this.

11:27AM

16 A I'm concerned where there are handwritten
17 pieces and I don't know if that's exactly what was
18 in the document. I don't know.

19 Q I understand that and I'm not -- let me ask
20 you this: What did you do to study or prepare for
21 your testimony before the Senate Committee?

11:27AM

22 A My recollection is that I had been on the
23 phone with staff at both NCC and -- or at NBC at
24 that time, National Broiler Council, and National
25 Turkey Federation, about the testimony, and they had

11:28AM

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1 talked through the components with me prior to this
2 testimony in the Senate.

3 Q How were you selected to be the person to read
4 this document to the Senate Committee?

5 A I don't know the answer to that. They thought 11:28AM
6 I had some working knowledge of the subject, and I
7 think that's probably how I was selected.

8 Q Did any representatives of Cargill assist in
9 preparing any part of this document as it was
10 ultimately presented to the Senate Committee? 11:29AM

11 A Not to my knowledge.

12 Q What did you do to assure yourself of the
13 truth of the information that is within the document
14 that you presented to the Senate Committee?

15 A I read through the document before I presented 11:29AM
16 the information.

17 Q And when you read through that document at the
18 time, did you believe it to be true before you
19 presented it to the committee?

20 A Yes, I did. 11:29AM

21 Q And did you believe it to be accurate when
22 presented to the committee?

23 A I believe in the totality of the document,
24 that most of it is accurate.

25 Q Most of it; so some of it may not be? 11:29AM

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1 A It's my recollection there are a few terms
2 that are things that are wordsmithed in a way that
3 maybe I would have worded differently, but this is
4 my testimony.

5 Q Did you bring that up to anybody with the 11:30AM
6 National Turkey Federation or the Broiler --
7 National Broiler Committee or Council?

8 A I don't recall.

9 Q Look at the Bates numbers at Page 1414 --
10 141456. 11:30AM

11 MR. EHRICH: I'm sorry, Counsel. Could
12 you --

13 MR. GARREN: 456 is the last three digits.

14 MR. EHRICH: 456, okay. Sorry.

15 Q And at the very bottom of the page there is a 11:30AM
16 -- the very last sentence on that page, full
17 sentence starting with given the ratio, can you read
18 that to the Record, please, into the Record
19 verbally?

20 A Okay. Given the ratio of nitrogen to 11:30AM
21 phosphorus in poultry waste, and most other animal
22 waste, applying the minimum amount of phosphorus
23 often leaves a crop deficient in nitrogen.

24 Q Did you believe that to be a true and accurate
25 statement? 11:31AM

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1 A In some site specific cases that statement can
2 be true.

3 Q Okay. Tell me how it would not be true.

4 A I think it depends on the crop, the type of
5 soil, a lot of variables there.

11:31AM

6 MR. EHRICH: Counsel, so that we're clear,
7 you're reading general statements out of this
8 testimony. Are you asking that they are accurate as
9 a general matter; are you asking if they're accurate
10 as a site specific matter because I'm concerned that
11 the Record be clear on that point.

11:31AM

12 Q I'm putting it in the context, Mr. Maupin, of
13 what you believed it to mean at the time you
14 presented it to the Senate Committee. Do you
15 believe at that time it was site specific or general
16 in nature, the sentence you just read?

11:32AM

17 A I think that's a general statement.

18 Q Okay, and did you understand it at the time
19 that you read it to the committee as being a general
20 statement?

11:32AM

21 A Yes. I think this document in general is a
22 general statement. When you get into the areas of
23 nitrogen or phosphorus application, those are site
24 specific issues.

25 Q Do you know and understand or believe that

11:32AM

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1 applying poultry waste as referred to here for the
2 plant needs -- for the nitrogen needs of a plant,
3 does that result in an over application of
4 phosphorus; do you know?

5 A I think that's a site specific case. The 11:32AM
6 other problem with this sentence is that technically
7 the term should have probably been poultry litter,
8 but I still think we're talking about something site
9 specific, and without some level of detail, I don't
10 know how that determination can be made. 11:33AM

11 Q But you weren't talking site specific when you
12 read it to the committee, Senate Committee, were
13 you?

14 A It was a broad statement.

15 Q Do you know what the phosphorus uptake for 11:33AM
16 Bermuda grass is, what the level or STP?

17 A Of phosphorus?

18 Q Yes, sir.

19 A My recollection is that it's -- and certainly
20 there are a lot of variables here. In general terms 11:33AM
21 it could be 40 to 60 pounds per year.

22 Q And do you know what the nitrogen uptake for
23 Bermuda grass is?

24 A I don't recall off the top of my head. I
25 don't know the answer. 11:34AM

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1 Q Did you at one time know before?

2 A I probably did.

3 Q It would be a requirement as a nutrient
4 management -- certified nutrient management planner,
5 would it not, to know that? 11:34AM

6 A That type of knowledge is a lot of times in
7 charts or those type of publications, so you would
8 not necessarily have to know that number --

9 Q But that would be --

10 A -- verbatim. 11:34AM

11 Q That would be something you would incorporate
12 into the nutrient management plan, would you not?

13 A Yes, it could be, if that crop was being
14 grown.

15 Q Would you agree with me, sir, that it makes no
16 sense to put more nitrogen on a crop than it needs? 11:34AM

17 MR. EHRICH: Object to the form.

18 A I think that's a site specific issue. I think
19 it depends on crop uptake. A lot of variables
20 there, too. 11:34AM

21 Q Are you telling me then if it doesn't need
22 nitrogen, you would still apply it; is that what
23 you're saying?

24 MR. EHRICH: Same objection.

25 A No, I'm not saying that. I'm just saying 11:35AM

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1 you're asking a site specific question.

2 Q My question to you is, does it make any sense,
3 and it doesn't have to be site specific, to put more
4 nitrogen on a crop than it needs?

5 A Nutrients are valuable, and so from a 11:35AM
6 financial perspective, it wouldn't make sense to
7 place more nutrients on a crop than it would need.

8 Q Let me ask you from an environmental
9 standpoint. Does it make any sense environmentally
10 to put more nitrogen on a crop than it needs? 11:35AM

11 MR. EHRICH: Same objection to form.

12 A I still think it's a site specific issue, and
13 I don't know that I can answer that in such a broad
14 sense.

15 Q Let me ask you this then: What site specific 11:35AM
16 criteria would you use that would justify putting
17 more nitrogen on the crop than it needs?

18 A Well, I think you've got to look at a lot of
19 factors. I don't know. Soil tests. I don't know.

20 Q If the soil test says -- 11:36AM

21 A Weather or location or slope. I mean there's
22 a lot of things; there's a lot of variables to that.

23 Q I'm going to ask you about a specific one. If
24 the nitrogen soil test shows that it's not needed,
25 does it make any sense environmentally to apply more 11:36AM

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1 at that time?

2 A In a specific instance where all the variables
3 say it wouldn't be needed, then it probably wouldn't
4 make sense.

5 Q What other variables besides the soil test 11:36AM
6 showing nitrogen is not needed by this crop would
7 you need to have to make that decision?

8 A Well, when you're applying poultry litter,
9 there are a lot of other nutrients and a lot of
10 other components to that kind of a decision and 11:36AM
11 there are a lot of pieces about solubility and those
12 kind of things that may impair the ability of a crop
13 to uptake those nutrients, and I just -- I'm not a
14 scientist. I'm not a soil scientist or an expert in
15 nutrient chemistry. 11:37AM

16 Q Does it make any sense to apply more
17 phosphorus to a crop than it needs?

18 MR. EHRICH: Object to the form.

19 A I think that's the same -- I think that's the
20 same question. Phosphorus can be bound in soils. 11:37AM
21 There are instances where people apply more than one
22 year's phosphorus at a time on pasture fields. A
23 lot of variables there, too.

24 Q Let me ask it again. Do you agree with me it
25 makes no sense to put more phosphorus than what the 11:37AM

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1 plant can use?

2 MR. EHRICH: Counsel, asked and answered.

3 MR. GARREN: It's not been answered,
4 Counsel.

5 MR. EHRICH: Well, let's have the 11:37AM
6 questions, the last two questions read.

7 MR. GARREN: I'm going to ask it again.
8 You've made your objection. I'm going to ask him to
9 answer my question.

10 MR. EHRICH: I believe it's been asked and 11:37AM
11 answered.

12 Q Do you agree with me it makes no sense to put
13 more phosphorus on a plant than it needs?

14 A I believe there can be specific instances
15 where more phosphorus is applied in a single 11:38AM
16 application than the plant would need during that
17 season.

18 Q Okay. So if you have a soil test from soil
19 and it says that the phosphorus is adequate, it
20 needs no further phosphorus, give me what factors 11:38AM
21 would justify applying more phosphorus to that crop.

22 A You're using the term adequate. It's a
23 science discussion, and I'm not an expert on soil
24 science or nutrient chemistry.

25 Q Does it make economic sense then to apply more 11:38AM

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1 phosphorus to a field, a grass field if a soil test
2 shows it needs none?

3 A Are you talking about in the sense that that
4 nutrient would come from poultry litter?

5 Q I'm just talking about phosphorus right now. 11:38AM

6 MR. EHRICH: Then, Counsel, I object to the
7 form, and there's no foundation here for this
8 witness.

9 Q Do you understand the question?

10 A Is it economically -- is it economically -- 11:39AM
11 does it economically make sense to place more
12 phosphorus than the crop needs; is that the
13 question?

14 Q That's the last question, yes, sir.

15 A Okay. A lot of variables and economics. 11:39AM
16 Poultry litter is a valuable fertilizer. It would
17 not make sense to use that at a level that's not
18 economically valuable.

19 Q And from your environmental training, does it
20 make any sense to apply more phosphorus to a field 11:39AM
21 that requires none?

22 MR. EHRICH: Asked and answered.

23 A I think I've already answered that question.

24 Q Look at Page 457 in this document. Let me
25 find the quote that I'm looking for here. Actually 11:40AM

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1 it starts at the very bottom of 456. It's the very
2 last two words and it goes to the top of 457. Read
3 that into the Record starting it would.

4 A It would seem far more appropriate to say that
5 waste can be applied as a fertilizer so long as it 11:41AM
6 does not exceed the maximum safe nutrient levels for
7 the cropland.

8 Q Can you tell me what that statement means when
9 it was read to the committee?

10 MR. EHRICH: Well, Counsel, you asked him 11:42AM
11 to read -- I mean there's words on the page that
12 you've asked him to read. That's what the words
13 mean. What's the question?

14 Q What does that mean to you?

15 A A couple of things with this. There -- this 11:42AM
16 is one of the lines that has handwritten comments in
17 it, so I guess I need to make the assumption that
18 that's exactly as it read when I did it in front of
19 the Senate. Certainly the term waste in that
20 sentence is probably misused, but I think it says 11:42AM
21 that poultry litter shouldn't be applied in levels
22 that are beyond the maximum level that is safe for
23 that type of cropland.

24 Q Okay. What is safe referring to in that
25 sentence when it is referring to safe level? 11:43AM

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1 A I don't know. I'm assuming that the
2 discussion is safe to the terms of what would be
3 safe with regard to water quality.

4 Q Okay, and how would one find --

5 A I'm making an assumption there. 11:43AM

6 Q Well, you read this to the committee. You
7 reviewed it in advance of reading it to the
8 committee; correct?

9 A Ten years ago I did, yes.

10 Q And let me ask you this: How would you -- 11:43AM
11 yourself, having read that, how would you know how
12 to determine what is a safe nutrient level?

13 A I think it goes to the site specific nature of
14 land application of poultry litter, soil type,
15 slope, distance from water bodies, riparian buffers, 11:44AM
16 all those things that reduce the risk of the use of
17 poultry litter.

18 Q Would you agree that the safe level should be
19 determined as a matter of scientific fact?

20 A I think that is a science question, yes. 11:44AM

21 Q Would you agree with me that implicit with
22 this statement that there is at some point an unsafe
23 level of nutrients?

24 A It's possible.

25 Q In 1998 would you agree with me it was widely 11:44AM

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1 known that excess nutrients can create water quality
2 problems?

3 MR. EHRICH: Object to the form, lack of
4 foundation.

5 A I'm not sure I understand how you're using the 11:44AM
6 word widely known.

7 Q Was it known to you in 1998 that excess
8 nutrients can create water quality problems?

9 A I think at that time I knew that excess
10 nutrients from any source could pose a hazard to 11:45AM
11 water quality.

12 Q I didn't ask what source. I'm just talking
13 excess nutrients.

14 A And you weren't specific about source. I
15 think it could be any source. 11:45AM

16 Q My question is, is there -- did the National
17 Turkey Federation know at this time that excess
18 nutrients can create water quality problems?

19 MR. EHRICH: Object to the form, lack of
20 foundation. 11:45AM

21 A It's more the risk of problems with water
22 contamination than actual water contamination. I
23 don't know of instances where poultry litter has
24 created direct water contamination. The goal is to
25 reduce the risk. 11:45AM

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1 Q I don't think I used the term poultry. I used
2 the term nutrients. Do you understand what that
3 means, nutrients?

4 A Do I understand what nutrients are, yes.

5 Q And generally nutrients are what? 11:46AM

6 A There's a lot of different --

7 Q What are the three major ones you are normally
8 concerned about?

9 A The three are nitrogen, phosphorus and
10 potassium. 11:46AM

11 Q All right, and so when we're just talking
12 about excess nutrients, those excess nutrients at
13 the time in 1998 were known to create water quality
14 problems, were they not?

15 MR. EHRICH: Object to the form, and it's 11:46AM
16 been asked and answered.

17 A I don't know that you can make that
18 assumption.

19 Q Why would you have a nutrient management plan
20 if you weren't trying to protect water quality from 11:46AM
21 nutrients?

22 A To reduce the risk of water contamination from
23 those nutrients.

24 Q And so there is a risk, isn't there?

25 A A risk. 11:46AM

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1 Q And you're saying you are only reducing it;
2 correct?

3 A The goal is to eliminate the risk. If
4 nutrient management is done properly, I think the
5 risk is almost nil, may be nil. 11:46AM

6 Q You would agree with me that the three
7 nutrients you just mentioned, nitrogen, phosphorus
8 and potassium, are contained within poultry waste,
9 poultry manure?

10 A Yes, they are contained in poultry manure. 11:47AM

11 Q Do you agree with me that applying poultry
12 waste to land at a rate based upon the nitrogen
13 needs can lead to a phosphorus buildup in the soil?

14 MR. EHRICH: Could I have that question
15 again? I'm sorry. 11:47AM

16 (Whereupon, the court reporter read
17 back the previous question.)

18 MR. EHRICH: I object to the form of that
19 question.

20 A I think you're asking a site specific question 11:47AM
21 again. I think you're asking a question that has a
22 lot of variables to it.

23 Q Okay. So your answer is what?

24 MR. EHRICH: Well --

25 A I don't necessarily agree with that. 11:48AM

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1 Q Let me hand you, sir, Exhibit No. 4 and ask if
2 you've ever seen that document before. I'll
3 represent to you that is a section of the water
4 quality handbook, poultry water quality handbook.

5 A It's been a long time but I have seen this 11:49AM
6 document.

7 Q Look at Page 143914, the second page of this
8 document in the lower right-hand corner, the last
9 paragraph, read to me the first sentence of that
10 paragraph to the Record. 11:49AM

11 A 143914?

12 Q Yes, sir.

13 A The last paragraph?

14 Q Starting with the word applying.

15 A Applying poultry waste to the land at rates 11:49AM
16 based on supplying the nitrogen needs of grain and
17 cereal crops can lead to phosphorus buildup in the
18 soil.

19 Q Do you have any information to tell us if
20 that's an incorrect statement? 11:49AM

21 MR. EHRICH: Object to the form of the
22 question, lack of foundation.

23 A I didn't write this document, and so I don't
24 know the full intent of it, and I haven't seen it in
25 a long time. I think we're still talking about a 11:49AM

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1 site specific issue, and it says can lead in there
2 as well, and once again it says poultry waste
3 instead of poultry litter, which I would object to
4 just in the terminology.

5 Q Okay. Let's move back then to Exhibit 16 and
6 to specifically references in that document at Page
7 141458. This document, sir.

11:50AM

8 A Oh, this one?

9 Q Yeah, at Page 458. In this second full
10 paragraph, you make a reference that says, for
11 example, in the Tulsa case, Arkansas poultry
12 producers have acknowledged publicly they have a
13 role to play in protecting Eucha-Spavinaw watershed
14 and have created their own voluntary twelve-point
15 program to protect the watershed. Did I read that
16 correctly?

11:50AM

17 A The way it's written on this page, that's
18 correct.

19 Q All right, and did you know that yourself or
20 did you rely on others to tell you about that when
21 you presented that material to the Senate Committee?

11:50AM

22 A I had only vague knowledge of that. I was in
23 Virginia during this time period.

24 Q Who would have provided you that information
25 about the Tulsa case and the Eucha-Spavinaw

11:51AM

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1 watershed?

2 A I'm assuming somebody from that water.

3 Q Did you do anything to yourself verify who

4 were the poultry producers who you say here

5 acknowledge publicly they have a role to play in

11:51AM

6 protecting Eucha-Spavinaw?

7 A No, I didn't.

8 Q Do you know today who the poultry producers

9 are that acknowledge publicly they have a role to

10 play in protecting the Eucha-Spavinaw watershed?

11:51AM

11 A No, I do not.

12 Q Let me ask you, sir, when you gave your

13 testimony to the Senate Committee in 1998, were you

14 put under oath?

15 A Yes, I think I was.

11:52AM

16 Q But sitting here today, you can't tell me what

17 the acknowledgment was that's referenced in this

18 document, Exhibit No. 16?

19 A I don't know who those specific growers are in

20 the Eucha-Spavinaw watershed.

11:52AM

21 Q Can you tell me what the acknowledgment was?

22 A It's my understanding, from the way this

23 reads, and I'm going back ten years to when I

24 presented this, that that -- an acknowledgment of

25 that type was to the risk, and I think growers

11:52AM

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1 wanted to use proper nutrient management and reduce
2 the risk to the watershed that they were involved
3 in.

4 Q Looking at the next page of this document at
5 Page 459 in the lower right-hand corner, the very 11:53AM
6 first full paragraph and the first sentence, in the
7 typed portion, not any handwritten portion, it says,
8 that Dialogue process and it's a capital D; do you
9 see that?

10 A Yes. 11:53AM

11 Q Is that your reference to the 1998 Dialogue
12 that we talked about earlier in your testimony?

13 A Yes, I believe it is.

14 Q I don't recall if I asked you, did anyone else
15 besides yourself participate in the Dialogue from 11:53AM
16 either Rocco or Cargill?

17 MR. EHRICH: I'm going to object to the
18 form of the question. The Dialogue was in 1998. I
19 think it's unclear in the question --

20 MR. GARREN: You may not have understood 11:53AM
21 the question and let me reask it to make sure he
22 does because I thought he did.

23 Q When the Dialogue was occurring, you
24 participated, and you testified about that today?

25 A That's correct. 11:54AM

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1 Q Do you recall whether or not anyone else from
2 Cargill or Rocco participated in that Dialogue also?

3 A There were two parts to the Dialogue. One was
4 the panel of industry and trade groups that I
5 previously discussed and government agencies and 11:54AM
6 universities. This process met at different places
7 around the country. So it's possible somebody from
8 Cargill attended at one of those locations and I
9 would not necessarily know that. There were fairly
10 large crowds at some of those and somebody could 11:54AM
11 have been there that was not part of the panel.

12 Q And I'm understanding that possibility, but
13 I'm asking you, did you know if anybody from Cargill
14 in fact did participate in the Dialogue in any way?

15 A I don't know for a fact, but it's possible. 11:54AM

16 Q Do you know a gentleman by the name of Fee,
17 F-E-E, Busby, B-U-S-B-Y?

18 A Yes, I've met Fee Busby.

19 Q How did you meet him?

20 A He was a part of the National Poultry
21 Dialogue. 11:55AM

22 Q All right, and did you have -- well, tell me
23 what kind of relationship did you have with him as a
24 result of meeting him there.

25 A I met him through the Poultry Dialogue. At 11:55AM

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1 that time he worked for USDA in Washington.

2 Q You testified earlier that you believe you
3 read there was a summation at some point in time.
4 Let me hand you an exhibit and ask you whether or
5 not you've seen that document. 11:55AM

6 MR. EHRICH: For the Record, Plaintiff's
7 Exhibit 17?

8 MR. GARREN: 17.

9 A I believe I have seen this document. It's
10 been a number of years, but I have seen it. 11:56AM

11 Q I understand that. Was this part of that
12 summation document that you referred to?

13 A No. This is a different document. This is
14 from one of the subgroups of that Dialogue.

15 Q All right, and -- 11:56AM

16 A And during the Dialogue, I was a part of this
17 subcommittee with Fee Busby.

18 Q This is how you met Mr. Busby is perhaps
19 working on this subcommittee?

20 A I don't know if that's exactly how I met him 11:57AM
21 but through the process, it's my understanding he
22 drafted a lot of this document.

23 Q Did you assist in any way to the preparation
24 of this document?

25 A I saw this document at the time I was a part 11:57AM

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1 of the subcommittee groups that met around the
2 country, but I don't recall how much input I had
3 into this.

4 Q Let me ask you this: At the time that it was
5 prepared and presented as part of the subgroup of
6 the report, was it intended to be correct and
7 accurate?

11:57AM

8 A I would assume that it would be intended to be
9 accurate to the extent that from the meetings around
10 the country people had input into it.

11:57AM

11 Q Well, let me ask you this: Did -- was it your
12 understanding as part of the Dialogue that the
13 reports such as this that came from it were intended
14 to be a fair representation of what that Dialogue
15 learned?

11:58AM

16 MR. EHRICH: Object to the form, lack of
17 foundation.

18 A I think it's fair that Fee Busby as chairman
19 of this committee was trying to accurately portray
20 what he had seen and what he had heard, what he
21 knew.

11:58AM

22 Q And I understand that part of it, but let me
23 ask you this: On a whole was it not the intent of
24 the Dialogue to present reports such as this or the
25 summation document that you spoke about earlier in a

11:58AM

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1 fair, complete and accurate way?

2 MR. EHRICH: Same objection, lack of
3 foundation.

4 A I think the intent was to create a document
5 that gave a fair understanding of where people's 11:58AM
6 thoughts were about the issues at the time.

7 Q It's fair to say then there was a search for
8 the truth and factual correctness in that Dialogue;
9 is that a correct statement?

10 A That was the intent. 11:59AM

11 MR. EHRICH: Object to the form. Let me
12 have a minute.

13 Q Look at Page 141726 of Exhibit 17 and the
14 second paragraph and it reads where it starts when.

15 A Which page is it? 11:59AM

16 Q The last three digits are 726.

17 A Okay.

18 Q In the second paragraph, what looks to the
19 third sentence starting when improperly handled,
20 stored or utilized, the organic matter, nutrients 11:59AM
21 and biological organisms in the manure can cause
22 water, air and soil pollution and threaten human
23 health. Did I read that sentence correct?

24 A That's what it says.

25 Q And was it the intent of this subcommittee to 11:59AM

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1 report truthfully and fairly those facts?

2 MR. EHRLICH: Objection, form, lack of
3 foundation. Counsel --

4 MR. GARREN: He's testified that he
5 participated in the Dialogue. He participated in 12:00PM
6 this committee, and he knew the author of this
7 document. You've made your objection. That's all
8 you need to do.

9 Q Did you believe this was an accurate statement
10 when it was put into this report? 12:00PM

11 MR. EHRLICH: Still lack of foundation.

12 MR. GARREN: We don't need to have an
13 argument or speaking objection. You've made your
14 objection, Counsel. That's all that's required.

15 MR. EHRLICH: I'll continue to object. 12:00PM
16 There's a link here that's missing.

17 Q Did you believe -- do you believe today that
18 this is an accurate statement?

19 A I think the intent of this statement, as I
20 read it, is to talk about the risk associated with 12:00PM
21 improper use of poultry litter or storage of
22 nutrients on farms, and so I believe Fee was the
23 author of this statement, and as it speaks to risk,
24 those things could be possible.

25 Q Is the term risk anywhere in the sentence I 12:01PM

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1 read to you into the Record?

2 A The term risk is not in that statement, but I
3 think that's what it is speaking to.

4 Q Go to Page 729 of this exhibit, if you would,
5 please. 12:01PM

6 A The very first -- the one that says four?

7 Q The one that says four. In the very first
8 sentence it says, land application is the most
9 common and usually most desirable method of
10 utilizing manure because of the value of the 12:01PM
11 nutrients and organic matter; do you see that
12 statement?

13 A Yes.

14 Q That's similar to what your testimony was
15 earlier about the use of poultry litter, is it not, 12:02PM
16 it was common?

17 A I think that's correct.

18 Q Okay. You agree with that statement then;
19 correct?

20 A Yes. 12:02PM

21 Q Let me ask you this: With regard to your
22 experience with Rocco and your experience with
23 Cargill entities -- let me ask it this way so it's
24 not compound. Has Rocco used the poultry litter
25 after it was removed from the grow-out barns in the 12:02PM

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1 continuing process of growing or processing its
2 birds?

3 MR. EHRICH: Object to the form.

4 A Have we reused poultry litter?

5 Q That's not my question. Do I need to tell you 12:02PM
6 the question again?

7 A Yeah, say it again.

8 Q Listen to me. Has Rocco used the poultry
9 manure, and I'll use your term. I'll restate it.

10 Has Rocco used poultry litter after it has been 12:02PM
11 taken out of the grow-out barns in the continuing
12 process of growing or processing birds?

13 MR. EHRICH: Object to the form.

14 A Yes, we have.

15 Q Tell me how that has occurred. 12:03PM

16 A We sometimes move brooder litter to a grow-out
17 to use --

18 Q I'm going to read my question to you one more
19 time. Listen to my question.

20 MR. EHRICH: Well, Counsel, let him answer 12:03PM
21 the question. He's trying to answer your question.

22 MR. GARREN: He hasn't answered. He
23 misunderstood it so I'm going to reread it to him.

24 A I don't think I misunderstood.

25 Q You clearly have and -- 12:03PM

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1 A I hadn't finished my answer.

2 MR. EHRLICH: Would you let him finish his
3 answer? Counsel, you can't interrupt. He's trying
4 to answer your question.

5 Q Go ahead and finish your question (sic). You 12:03PM
6 were going to tell me you moved brooder litter into
7 a grow-out barn; correct?

8 A There were two parts to my answer.

9 Q Then finish your answer.

10 A Okay. We sometimes move brooder litter, which 12:03PM
11 is still mostly bedding, into grow-out houses.
12 There are also times where as we clean out a
13 grow-out house, we'll move that litter over to
14 another house if we need the litter. So litter can
15 move from one house to another. 12:04PM

16 Q All right. Now, when -- my question then in
17 that context, when it was removed finally from a
18 grow-out barn, is that poultry litter utilized in
19 the continuing process of growing or processing
20 birds when it's finally removed from the grow-out 12:04PM
21 barn?

22 A Finally removed meaning it will no longer be
23 used for bedding?

24 Q Correct.

25 A Is that the question? 12:04PM

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1 Q Once it's removed the last time from the
2 grow-out barn, is it used in the continuing process
3 of producing birds?

4 MR. EHRICH: Object to the form.

5 A For the most part, no. 12:04PM

6 Q For the most part. Tell me any part and where
7 it's used after it has been finally removed from the
8 grow-out barn.

9 A We've had several instances where -- these go
10 years back, but where we've tested the possibility 12:05PM
11 of composting litter and putting it back in houses
12 to reuse.

13 Q You tested it. Did you in fact do that?

14 A On a test basis.

15 Q Okay, and how many times did you do it? 12:05PM

16 A I don't recall.

17 Q Less than a dozen?

18 A I don't even recall that. I mean I just know
19 that we have tried that.

20 Q Did you do it for a period of what time? 12:05PM

21 A Small numbers of farms and a small period of
22 time. I don't know an exact number.

23 Q Would you agree with me it didn't work out?

24 A There's a lot of labor involved in that
25 process. 12:05PM

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1 Q It's too expensive to do it that way?

2 A It's expensive and time consuming and labor
3 intensive.

4 Q Would you agree with me that it's not being
5 done today, and other than that test, it's not being 12:05PM
6 done?

7 A Not to my knowledge it's not.

8 Q Okay. So would you agree with me then that
9 when Rocco removed poultry waste, poultry litter
10 from the last time of a grow-out barn, it has not 12:05PM
11 been used in the continuing process of growing or
12 processing birds?

13 MR. EHRICH: Object to the form of the
14 question.

15 A Not to my knowledge in our company. 12:06PM

16 Q Okay. Now, I'm going to ask you the same
17 question with regard to Cargill entities. Has
18 Cargill, whether it's Cargill Turkey Products,
19 whether it's Cargill Value Added Meats, whether it's
20 Cargill Turkey Production, LLC, used poultry litter 12:06PM
21 after it's been taken out finally of the grow-out
22 barns in the continuing process of growing or
23 processing birds?

24 MR. EHRICH: Object to the form.

25 A Yes, it has happened. 12:06PM

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1 Q And tell me how it's happened.

2 A Isn't that the same question I just answered?

3 Q No, because I asked you Rocco the first time
4 around and now I'm asking you Cargill entities.

5 A Okay. It's the same answer. We have tried 12:06PM
6 that.

7 Q And you're saying we meaning Rocco or Cargill?

8 A I think both companies at some point have
9 tried that.

10 Q Are you telling me both companies? So before 12:06PM
11 Rocco was acquired by Cargill, it tested the reuse
12 of litter?

13 A Yes, I think they have.

14 Q And you're telling me then after Cargill
15 acquired Rocco, Cargill did the same tests? 12:07PM

16 A I think that has been done, yes.

17 Q Were the results the same?

18 A Yes.

19 Q Looking at the bottom of the same page, 729,
20 fourth page of the document, last paragraph, I'll 12:08PM
21 read you a sentence that starts, second sentence,
22 high soil phosphorus levels and related water
23 pollution have been identified as a problem on some
24 fields where poultry litter has been land applied
25 for many years. Did I read that correctly? 12:08PM

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1 A That's what it says in this document.

2 Q Okay. Do you have any facts or knowledge that
3 contradict that statement, sir?

4 MR. EHRICH: Object to the form, lack of
5 foundation.

12:08PM

6 A I'm not a soil scientist. I'm not a nutrient
7 expert. I don't know of a case where -- I don't
8 know of a case where water contamination has
9 happened as a result of that process.

10 Q But I'm asking you a different question. My
11 question is, do you have any information or facts
12 that contradict the statement that was just read
13 from this report from the Dialogue in 1998?

12:08PM

14 MR. EHRICH: Counsel, asked and answered.
15 He answered --

12:09PM

16 A I think I answered that question.

17 MR. EHRICH: Let me finish. Counsel, it's
18 asked and he's answered it to the best of his
19 ability.

20 MR. GARREN: And you've made your
21 objection. You don't need to make a speaking
22 objection.

12:09PM

23 MR. EHRICH: I'm not making a speaking
24 objection. I'm telling you what my objection is.
25 It's asked and answered.

12:09PM

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1 MR. GARREN: So I'm clear on his answer,
2 I'm going to ask it one more time.

3 MR. EHRLICH: Let's have the court reporter
4 read it back then.

5 MR. GARREN: Read it back.

6 (Whereupon, the court reporter read
7 back the previous questions and answers at Page
8 124, Line 18 through Page 125, Line 9.)

9 Q So your response is that even though this says
10 that high soil phosphorus levels and related water 12:10PM
11 pollution have been identified, you're telling me
12 you're not aware of that identification of that
13 fact; is that what you're telling me?

14 A Yes. I don't know of that case that relates
15 to that statement. 12:10PM

16 Q Who provided you your training as a certified
17 nutrient management planner?

18 A State of Virginia.

19 Q Okay, and --

20 A Texas A & M University. 12:11PM

21 Q And were your courses before or after 1998 in
22 Virginia and Texas?

23 A Virginia was during 1998. Texas was after
24 1998.

25 Q Okay. Were you given materials as part of 12:11PM

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1 that educational experience?

2 A Yes.

3 Q And do you know what those materials were;
4 were they books?

5 A It's my recollection that there was a training 12:11PM
6 manual for each of those courses.

7 Q Look at page of the same Exhibit 17, the last
8 three digits, 731, which is Page 6 of the actual
9 document. Looking at the paragraph under watershed
10 planning, the second paragraph under that category, 12:12PM
11 the first sentence says, we recognize that
12 concentration of large numbers of poultry farms and
13 an increase in the size of individual farms has
14 created a situation in some areas where there are
15 more nutrients in the manure than can be utilized by 12:12PM
16 the row and forage crops grown in the area. Did I
17 read that correctly?

18 A That's what it says in this document.

19 Q Do you know what areas of the United States
20 this reference was to? 12:12PM

21 MR. EHRICH: Objection, lack of foundation.

22 A I don't know specifically. Fee Busby is the
23 author of the document. I don't know specifically.

24 Q Was the Shenandoah Valley area recognized as a
25 nutrient surplus area? 12:13PM

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1 MR. EHRICH: Object to the form.

2 A In 1998 is the question?

3 Q Yes, sir. Do you remember when the ordinance
4 went into effect in Rockingham County?

5 A I don't know that I would use the term you 12:13PM
6 used. There was a recognition that there was --
7 there were a lot of farms in that Rockingham County
8 area.

9 Q That had excess nutrients in the soil; is that
10 correct? 12:13PM

11 A I don't know that I would use that term excess
12 nutrients. You're talking about a time period that
13 had a nitrogen standard, and so phosphorus
14 regulation hadn't come into effect.

15 Q Well, all right, but we've talked about 12:13PM
16 nutrients here, nitrogen and phosphorus. Nitrogen
17 is simply one nutrient; isn't it?

18 A That's correct.

19 Q And they enacted an ordinance that had to do
20 with restricting the use of poultry litter on the 12:14PM
21 lands within that area, did they not?

22 A The intent of that ordinance was as much for
23 the poultry business being able to exist in an area
24 of growing urban sprawl as it had to do with
25 nutrient management at that time. 12:14PM

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1 Q So it had to do with nutrient management is
2 what you're telling me; correct?

3 A There was a component of the ordinance that
4 had to do with nutrient management.

5 Q Part of that had to do with the fact that this 12:14PM
6 was a concentrated area of poultry growing, was it
7 not?

8 MR. EHRICH: Object to the form, lack of
9 foundation.

10 A There are a number of farms in the Rockingham 12:14PM
11 County area, that's correct.

12 Q And you're telling me -- how long did you live
13 in Virginia?

14 A In my entirety? Can I estimate the number or
15 you want exact? 12:15PM

16 Q Sure, sure. We want to know how old you are.

17 A I am 46. 30 some years.

18 Q 30 some years out of those 46 years. Are you
19 telling me you don't recognize Shenandoah Valley as
20 a poultry concentrated area? 12:15PM

21 A You're using the term concentrated. There are
22 a lot of farms in the Shenandoah Valley area. The
23 term concentrated, I don't know exactly what that
24 means, so I'm answering to the best of my knowledge.

25 Q When you read this statement on Page 731 in 12:15PM

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1 this Exhibit 17, it says we recognize a
2 concentration of large numbers of poultry farms. Do
3 you understand what that says?

4 MR. EHRICH: Object to the form of the
5 question. 12:15PM

6 A You're asking two different questions. This
7 statement does not necessarily refer to the
8 Shenandoah Valley.

9 Q Oh, I'm asking you whether it does. That was
10 the only point of my question. 12:16PM

11 A I don't know that it does.

12 Q Okay. Do you recognize the northwest Arkansas
13 area as an area that has a concentration of a large
14 number of poultry farms?

15 MR. EHRICH: Object to the form of the 12:16PM
16 question, complete lack of foundation.

17 A There are a lot of poultry farms in the
18 northwest Arkansas area.

19 Q As part of your responsibilities to Cargill
20 and/or Rocco, when you participated in the National 12:16PM
21 Turkey Federation organization, were you responsible
22 for bringing back information learned in that
23 federation and sharing it with those in those
24 companies that might need it?

25 A In those companies or within my company? 12:17PM

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1 Q Well, I'm not sure because I don't remember
2 right now. Were you on the National Poultry
3 Federation when you were employed by Rocco?

4 A I worked with the National Turkey Federation
5 when I was employed at Rocco. 12:17PM

6 Q And when you did, was it part of your
7 responsibilities or duties to share the information
8 that was learned within that organization with those
9 at Rocco?

10 A I did. 12:17PM

11 Q And did you do the same thing for the Cargill
12 entities when you continued to work with the
13 National Turkey Federation?

14 A I did.

15 MR. GARREN: We'll stop for a new tape. I 12:17PM
16 guess we'll stop for lunch.

17 VIDEOGRAPHER: We're now off the Record.
18 The time is now 12:17 p.m.

19 (Following a lunch recess at 12:17
20 p.m., proceedings continued on the Record at 1:17
21 p.m.)

22 VIDEOGRAPHER: We are now back on the
23 Record. The time is now 1:16 p.m.

24 Q Mr. Maupin, shortly before we took a break,
25 you made a statement, probably more than once, but 01:17PM

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1 essentially I'll paraphrase it, and tell me if I'm
2 correct. I don't know of a case where water
3 contamination has happened as a result of high soil
4 phosphorus levels from land applied poultry litter.

5 Is that a fair statement that you made earlier? 01:17PM

6 A I don't personally know of a case.

7 Q Okay. Let me ask you, sir, when have you
8 looked at any time to see if that's true or not
9 true?

10 A I have not researched that. 01:17PM

11 Q Have you made any -- I'm sorry. Are you
12 finished?

13 A I have not researched that statement.

14 Q Okay, and have you, sir, made any independent
15 study or investigation as to whether or not that's 01:17PM
16 true?

17 A No, I have not.

18 Q Do you know whether or not Rocco has made any
19 study or investigation to prove or disprove your
20 statement -- I'm sorry. That's not correct. Let me 01:17PM
21 reword it. Do you know whether or not Rocco has

22 made any independent study or investigation to prove
23 or disprove that high soil phosphorus levels from
24 land applied poultry manure can cause contamination
25 of water? 01:18PM

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1 MR. EHRICH: Object to the form.

2 A Not to my knowledge.

3 Q Do you know whether any of the Cargill
4 entities have made such an investigation or study as
5 to whether high soil phosphorus levels from land 01:18PM
6 applied poultry manure has resulted in contamination
7 of water?

8 MR. EHRICH: Object to the form.

9 A Not to my knowledge.

10 Q Are you familiar with what's called the 01:18PM
11 Poultry Water Quality Consortium?

12 A Yes, I know what that is.

13 Q Tell the court what that is.

14 A It's my understanding that that group was a
15 USDA -- 01:18PM

16 MS. BRONSON: Vickie Bronson.

17 Q Go ahead.

18 A It's my understanding that that group is a
19 USDA-sponsored group that provides educational
20 materials on best management practices for -- best 01:19PM
21 management practices for the poultry industry.

22 Q To what extent have you been involved with
23 that Poultry Water Quality Consortium, yourself, if
24 any?

25 A I knew one of the previous people that worked 01:19PM

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1 for that group. They were active in the Poultry
2 Dialogue we discussed earlier.

3 Q Is that Mr. Proctor or Mr. Watts?

4 A No.

5 Q Who was it? 01:19PM

6 A Larry Goff.

7 Q In fact, he kind of headed it up, did he not?

8 A Yes.

9 Q Or was in charge of the Consortium?

10 A Yes. 01:19PM

11 Q Is it G-O-F-F?

12 A Yes.

13 Q Tell me what was the nature and extent of your
14 relationship with Mr. Goff.

15 A I met Larry Goff in the late '90's. He headed 01:20PM
16 up the Poultry Water Quality Consortium. At that
17 time I had seen some of the documents they had put
18 together from various sources.

19 Q Including what was compiled into what's called
20 the poultry water quality handbook? 01:20PM

21 A Yes. At that time I had seen that handbook.

22 Q And did you see both versions of that
23 handbook?

24 A I don't know the answer to that. I saw a
25 version of it. I don't know which one it was. 01:20PM

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1 Q Okay. Do you know a Mr. Stuart Proctor?

2 A Yes.

3 Q And how do you know him?

4 A He was president of the National Turkey

5 Federation in the late '90's and early 2000.

01:21PM

6 Q Did you have dealings with him then through
7 your association with the Turkey Federation?

8 A Some dealings, yes.

9 Q Did you have dealings with him outside of the
10 venue of the Turkey Federation?

01:21PM

11 A No.

12 Q Did you know that he was recognized as a
13 contributor to the poultry water quality handbook in
14 '94?

15 A I don't know that I knew that. I may have
16 known at the time or seen his name on it, but I
17 don't recall it.

01:21PM

18 Q Do you know Mr. George Watts?

19 A Yes.

20 Q And how do you know Mr. Watts?

01:21PM

21 A He was president of the National Broiler
22 Council and National Chicken Council.

23 Q The Broiler Council became the Chicken
24 Council, just a name change pretty much?

25 A That's correct.

01:21PM

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1 Q All right, and do you know he was also
2 recognized as a contributor to the first version of
3 the water quality handbook?

4 MR. EHRICH: Object to the form.

5 A I don't recall that, but I may have seen that 01:21PM
6 at the time.

7 Q What kind of relationship did you have with
8 Mr. Watts at the Broiler Council?

9 A Only knew him briefly through interaction in
10 Washington, D.C. with the National Broiler Council. 01:22PM

11 Q Did the Turkey Federation conduct what I will
12 call informative sessions to educate those in the
13 association about water quality concerns resulting
14 from poultry growing operations?

15 A I don't know that I would use the word 01:22PM
16 training sessions, but certainly there were
17 discussions to that effect.

18 Q Well, did they conduct what I would call
19 seminars or conferences in order for those who
20 wanted to be involved and knowledgeable about those 01:22PM
21 concerns, they could participate and learn about it?

22 MR. EHRICH: Object to the form.

23 A They might have. I just don't recall that
24 they did that.

25 Q Likewise, for the Broiler Council, now the 01:22PM

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1 Chicken Council, does it or has it in the past
2 conducted meetings or conferences for those who
3 wanted to be knowledgeable about water quality
4 concerns from poultry growing operations, they could
5 be?

01:23PM

6 MR. EHRICH: Object to the form.

7 A Same answer. They may have.

8 Q Are you familiar with the survey that was
9 published and presented by the National Chicken
10 Council for poultry growers?

01:23PM

11 A I do remember that survey.

12 Q Did Rocco and/or Cargill to your knowledge
13 participate in that survey with its growers?

14 MR. EHRICH: Object to the form, compound.

15 A We did participate in the survey. I cannot
16 recall whether it was during the Rocco days or the
17 Cargill time period. I just can't remember.

01:23PM

18 Q At the conclusion of the survey, did either
19 Rocco or Cargill at the time receive benefit of the
20 results of that survey when it was published?

01:23PM

21 A I think we did, but I don't recall the
22 results.

23 Q Do you remember what was the purpose of that
24 survey?

25 MR. EHRICH: Object to the form, lack of

01:24PM

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1 foundation.

2 A My understanding was that it was a survey to
3 see the level of best management practices that were
4 going on in the poultry industry at that time.

5 Q All right, and do you remember whether or not 01:24PM
6 that survey also had questions regarding the amount
7 of waste that was being produced on the farm, how it
8 was being utilized, whether being sold, applied,
9 that sort of thing?

10 A I remember there were questions to that 01:24PM
11 regard, with regard to poultry litter.

12 Q Okay. Let's talk a little bit about the -- it
13 was originally the Southeastern Poultry & Egg
14 Association. Do you remember that name?

15 A Yes. 01:24PM

16 Q It's now known as the U. S. Poultry & Egg
17 Association; correct?

18 A Correct.

19 Q And to what extent have you had any
20 involvement with that association? 01:24PM

21 A For some period of time in the early 2000's I
22 guess I was a member of the environmental committee
23 with the U. S. Poultry & Egg Association.

24 Q And what was the responsibility or duty of
25 that committee? 01:25PM

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1 A For the most part, it was educational. My
2 involvement primarily was in setting up a yearly
3 educational seminar that that group puts on.

4 Q What was the name of that seminar?

5 A The -- my best recollection is it's U. S. 01:25PM
6 Poultry & Egg Environmental Management Seminar.

7 Q Okay, and was it part of your duty and
8 responsibility then to obtain the materials that
9 were presented at that seminar?

10 A Not so much the materials, as we would line up 01:25PM
11 speakers or come up with an agenda for that meeting.

12 Q Would you then participate in those yearly
13 seminars and listen to what's being presented?

14 A On several occasions I attended, yes.

15 Q Okay, and as you said earlier, whatever you 01:26PM
16 might have learned or materials you might have
17 gathered, you would take that back to either Cargill
18 or Rocco and share it with them?

19 MR. EHRICH: Object to the form, compound.

20 A Yes, if I thought there were things relevant 01:26PM
21 to our business.

22 Q Is water quality concerns or environmental --
23 strike that. Would environmental concerns resulting
24 from poultry growing operations be relevant?

25 MR. EHRICH: Object to the form. 01:26PM

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1 A To the extent that there were discussions
2 involving best management practices for poultry
3 litter, we would take those back to our organization
4 and share those.

5 Q Did you ever participate in any National 01:26PM
6 Poultry Waste Management Symposiums?

7 A Yes, I have.

8 Q Do you recall the year that you participated?

9 MS. LLOYD: Jennifer Lloyd.

10 A I don't recall the exact year, but I have 01:27PM
11 attended several of those conferences.

12 Q Okay. Let me hand you what's been marked as
13 Exhibit 22 and ask you if that would help refresh
14 your recollection about participation. Maybe it
15 won't. In fact, do you know a Gerald Murphy from 01:27PM
16 Rocco?

17 A Gerald Murphy, yes, I did know who Gerald
18 Murphy was.

19 Q Why don't you look -- these are not Bates
20 numbered but Roman number XIII, 13. It simply lists 01:27PM
21 committee members.

22 A Your specific question is --

23 Q Are you on Page 13, XIII?

24 A Okay, yes.

25 Q It lists Gerald Murphy, and I'm asking you how 01:28PM

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1 you knew him and whether he was at Rocco at the same
2 time you were there.

3 A I know who Gerald Murphy is.

4 Q Was he there at the same time with you?

5 A I was -- in 1994 I was not at Rocco. 01:28PM

6 Q Okay. Do you remember which years or how many
7 times you attended the National Poultry Waste
8 Symposium?

9 A I attended several different years. One of
10 those was probably in Springdale, Arkansas. 01:29PM

11 Q Okay.

12 A And the other, I can't recall where it was. I
13 attended it several times.

14 Q Do you recall the literature that's published
15 at these symposiums? The Exhibit 22 is simply an 01:29PM
16 excerpt from it. Would you get the handouts that
17 they would present at those symposiums when you
18 would attend?

19 A Yes.

20 Q And I'll represent to you that the ones I've 01:29PM
21 seen --

22 A If I attended, if I attended.

23 Q Right. This is only an excerpt, but it shows
24 that it goes at least to 288 pages at the end. It
25 may have actually been longer, but my point is, the 01:29PM

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1 material they handed out was voluminous on a lot of
2 subjects; correct?

3 A Yes. It was a large document.

4 Q And a lot of it dealt with handling and
5 disposition of poultry waste as the name would 01:30PM
6 imply; correct?

7 A Poultry litter, yes.

8 Q Okay. Did you ever present any materials in
9 any of the symposiums that you attended?

10 A I don't recall where. It seems to me I did 01:30PM
11 present at one of the Poultry Waste Management
12 Symposiums.

13 Q Did you assist in authoring materials that may
14 have been presented by others at any symposiums?

15 MR. EHRICH: Object to the form. 01:30PM

16 A Not that I recall.

17 Q Let's talk about Cargill in a more recent time
18 frame, all right, and so that I'm clear in
19 understanding, Cargill owns the birds that are
20 placed in the contract growers' farms; correct? 01:31PM

21 A That's correct.

22 Q And the title of those birds always remain
23 with Cargill; correct?

24 A That's correct.

25 Q When Rocco operated, did it retain title to 01:31PM

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1 its birds when placed on contract grower farms, same
2 as Cargill does?

3 A That's correct.

4 Q So it didn't make any change in its
5 operational way as it pertains to that once acquired 01:31PM
6 by Cargill?

7 MR. EHRICH: Object to the form.

8 A Not in the ownership relationship with the
9 birds.

10 Q That's the intention of my contract or my 01:31PM
11 question.

12 A Yes.

13 Q Who owns the feed that is given or provided to
14 the birds for Cargill growing?

15 A Cargill. 01:31PM

16 Q And are the growers allowed to introduce any
17 feed that's not presented by Cargill to them?

18 A No. They should not feed feed that's not
19 produced by Cargill.

20 Q Does Cargill in fact grow a lot of the feed 01:32PM
21 that it uses in its poultry operations from its
22 other businesses?

23 A Don't know the answer to that.

24 Q The additives -- the additives that are placed
25 in the feed and given to the birds, that's -- those 01:32PM

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1 are owned by Cargill when they're placed in the
2 feed; is that correct?

3 A Things that we add to the feed are a part of
4 the feed, and that's owned by Cargill.

5 Q Growers are not allowed to introduce any 01:32PM
6 additives themselves, are they, unless it's approved
7 by Cargill?

8 A To the feed?

9 Q Correct.

10 A To the feed, only by Cargill direction. 01:32PM

11 Q Right, and if so directed, it would be
12 additives that are either created by or given by
13 Cargill to the grower for that purpose?

14 MR. EHRICH: Object to the form.

15 Q Is that a fair statement? 01:33PM

16 A The term given kind of changed my answer.
17 Those things are a part of the feed. Cargill owns
18 the feed. That feed is delivered to the growers.

19 Q Okay, and I didn't mean to imply anything by
20 given. I just mean that any additives that are 01:33PM
21 introduced to the feed are only those that Cargill
22 can create or add to it; is that correct?

23 A In the feed, that's correct.

24 Q Does Cargill provide the only medications that
25 are authorized to be given to the birds? 01:33PM

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1 A In the area of medication we -- in the area of
2 medication those are normally prescribed by Cargill.

3 Q Okay. Would that include antibiotics in the
4 term medication?

5 A It could, it could. 01:34PM

6 Q Are you -- you said earlier that when you
7 worked at Rocco, you dealt with some contracts and
8 with contract growers. Do you have any dealings
9 with the Cargill contracts for the contract growers?

10 Maybe not now but -- 01:34PM

11 A Currently?

12 Q Yeah. We'll just ask currently.

13 A I sign the contracts. The work with the
14 contracts are done on a local basis.

15 Q All right. 01:34PM

16 A Usually handled by our ag managers.

17 Q Okay. Having signed them, you're familiar
18 with the terms of those contracts?

19 A Yes.

20 Q Okay. I'm going to show you Exhibit No. 3 and 01:34PM
21 ask if you can identify that document.

22 A Are we finished with this one?

23 Q Yes, we are.

24 A Okay.

25 Q Mr. Maupin, just for your information so that 01:35PM

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1 you'll know, the Bates numbers in the bottom
2 right-hand corner that say CARTP, those are
3 documents that Cargill Turkey Production produced or
4 Cargill, Inc., produced in this case to the State of
5 Oklahoma. So that would be the source of them. All
6 right. Having looked at it, does this appear to be
7 the standard contract that was utilized in 2006 by
8 Cargill Turkey Production, LLC?

01:35PM

9 A From my quick look at it, it appears to be.

10 Q Okay. Can you show me in this contract where
11 there are terms that transfer the ownership of the
12 poultry litter to the grower, contract grower?

01:36PM

13 MR. EHRICH: Object to the form of the
14 question, and it calls for a legal conclusion.

15 A Okay. Our contracts are put together by our
16 legal group within Cargill. The question you asked,
17 litter is addressed in Section 7 in this contract.

01:36PM

18 Q Okay. Is it your opinion that the terms in
19 Paragraph 7 transfer the legal ownership of the
20 poultry manure and used bedding to the contract
21 grower?

01:37PM

22 MR. EHRICH: Same objections.

23 A My understanding of Section 7 is that the
24 grower owns the litter, the poultry litter produced
25 on the farm.

01:37PM

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1 Q Is there any particular language in that
2 Paragraph 7 that you, in looking at it, rely on for
3 that conclusion?

4 MR. EHRICH: Same objection.

5 A I think you're asking for a legal conclusion 01:37PM
6 but --

7 Q I'm really not. I'm just asking your opinion
8 about what terms in Paragraph 7 make you believe
9 that the contract grower owns the used litter.

10 A Certainly the third sentence there where the 01:37PM
11 grower is required to remove and replace the litter
12 talks to that point I think.

13 Q All right. Is there anything else in there
14 that in your opinion shows that the grower owns the
15 used litter? 01:38PM

16 A I haven't read this for a while. My general
17 understanding and the understanding of our growers
18 is that they own the litter.

19 MR. EHRICH: Well, now, I'm going to ask
20 the witness to respond to the question. If you need 01:38PM
21 to read that paragraph, go ahead and read that
22 paragraph.

23 Q I would ask you to do so. If there's anything
24 else in there in the way of terms that you think in
25 your opinion transfer that ownership to the contract 01:38PM

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1 grower, I'd like you to list them to me besides the
2 phrase you just stated.

3 A Okay. From just Section 7, I think the
4 previous sentence that I read back that talked about
5 grower requirements to remove and replace litter is 01:39PM
6 one piece of it. Certainly the other place I think
7 that draws reference to that is the final half of
8 that paragraph where it talks about grower nutrient
9 management plans and the grower's obligation in that
10 regard. So certainly that would imply that the 01:39PM
11 grower owns the litter by nature of those sentences
12 at the end of the paragraph. Past that, I think
13 you're asking me for a legal conclusion.

14 Q We talked earlier, but I want to establish a
15 little more clearly with regard to Cargill's 01:40PM
16 obligations under the contract. They -- Cargill
17 provides -- I refer to the term flock supervisor or
18 service rep, a gentleman that goes out weekly and
19 checks on the farm, checks on the grower or more
20 than weekly. What term does Cargill use for that 01:40PM
21 person?

22 MR. EHRICH: Object to the form.

23 A That flock -- that term we use is flock
24 supervisor, and that may be male or female.

25 Q Is the duty of that supervisor to go out and 01:40PM

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1 check on the flocks on a regular basis?

2 A Yes. They go to the farms and monitor the
3 progress of the farm.

4 Q And they have reports or forms that they fill
5 out on their visits to the farm; is that correct? 01:41PM

6 A Yes, they do.

7 Q And they leave a copy of that with a grower?

8 A Yes.

9 Q And another copy goes back to the operations
10 for Cargill records? 01:41PM

11 A Yes.

12 Q And who reviews those reports?

13 A The flock supervisor fills out the form. If
14 there's a review done on those forms, it's done by
15 either a grow-out manager or one level above him 01:41PM
16 would be our ag manager.

17 Q Would those same two people, the supervisors
18 you just mentioned, the grow-out manager or the ag
19 manager, are they responsible for doing the
20 performance reviews for the flock supervisor? 01:41PM

21 A Yes, one or the other, yes.

22 Q And as part of that review, do they review the
23 reports and the work done in growing the birds or
24 assisted -- did it review the reports as part of
25 that evaluation of the flock supervisor? 01:42PM

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1 A I don't know that those reports are actually a
2 part of the review process. Certainly it's a piece
3 of a flock supervisor's overall performance.

4 Q The performance of the flock can be related in
5 other documents that Cargill tracks as to the flock; 01:42PM
6 is that a fair statement?

7 A The flock performance can be tracked?

8 Q Yes, sir.

9 A Yes.

10 Q I believe there is a report that says flock 01:42PM
11 performance report, is there not?

12 A Yes. We track flock performance.

13 Q Is that part of the evaluation used for a
14 flock supervisor, that report?

15 A It's probably a piece of their overall flock 01:42PM
16 performance, overall performance review.

17 Q When the flock supervisor goes to the farm, is
18 it true that he will inspect and maybe advise with
19 regard to the temperature control in the barn?

20 MR. EHRICH: Object to the form. 01:43PM

21 A The flock supervisor on his visit to the farm
22 would look at temperature, that's correct.

23 Q And would they look at the ventilation and
24 controls of the ventilation?

25 A Yes. 01:43PM

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1 Q Would they look at the water supply to the
2 birds?

3 A Yes.

4 Q And that would include the height of the
5 nipples that the birds receive that water from, that 01:43PM
6 sort of thing?

7 A Yes.

8 Q And would the flock supervisor also check on
9 the delivery of the feed to the birds?

10 A Yes, there would be feed there, yes. 01:43PM

11 Q And know that it's being appropriately managed
12 for their needs?

13 A He wouldn't be involved in the actual delivery
14 of feed or that process, but he certainly would
15 know -- he or she would know if there's feed on the 01:44PM
16 farm.

17 Q And he would be able and see that it's
18 operating -- that the units that feed the feed
19 automatically to the troughs are operational, that
20 sort of thing? 01:44PM

21 A Yes.

22 Q All right. Does the flock supervisor also
23 give instruction or advice with regard to the
24 condition of the litter that's in the barn?

25 MR. TUCKER: Sorry, was in -- 01:44PM

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1 MR. GARREN: The condition of the litter
2 that's in the barn.

3 MR. TUCKER: I misunderstood your word.
4 Thank you.

5 MR. EHRICH: Did you hear the question? 01:44PM

6 A Yes, that's possible.

7 Q As part of the flock supervisor's duties, they
8 may from time to time advise of doing something with
9 the litter that's in the barn in order to improve
10 the health of the birds or for some other reason? 01:44PM

11 A They certainly could make that suggestion if
12 they felt like there was an issue there that
13 affected flock health.

14 Q Cargill supplies the catchers and the trucks
15 to pick up the birds when that's done; is that 01:45PM
16 correct?

17 A We supply those things. We don't necessarily
18 own those operations.

19 Q Okay. The grower is not doing that out of
20 pocket? 01:45PM

21 A No.

22 Q Rocco and Cargill -- let me just ask, Rocco
23 has what is referred to as a best management
24 practices for growing its birds?

25 A Yes, had. 01:45PM

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1 Q Had. Do you recall, is it called a handbook,
2 a guide, a manual; how do you refer to that?

3 A I think the term was best management practices
4 guide.

5 Q Okay. Does Cargill -- 01:45PM

6 A The term manual was used sometimes, too.

7 Q Okay, and does Cargill have a similar document
8 that it uses and gives to contract growers?

9 A Yes.

10 Q I'm going to hand you -- we can move to 01:45PM
11 Exhibit No. 2 and ask you --

12 A Are we finished with that one?

13 Q Yes, we are. Look at that document and see if
14 you recognize it and know what it is. I'm not going
15 to ask you detailed questions about the contents 01:47PM
16 necessarily, but I just want you to familiarize
17 yourself with the document so you can authenticate
18 or identify it for my purposes.

19 A It may take me a few minutes. There's a large
20 number of items here. 01:47PM

21 Q Okay.

22 MR. GARREN: You want to go off the Record
23 while he reviews it? Do you have any objection?
24 He's just flipping pages.

25 MR. EHRICH: Yeah, I know, and I'm looking 01:47PM

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1 through, too. It appears to me, Counsel, that these
2 are consecutive pages.

3 MR. BULLOCK: Right, right.

4 MR. EHRICH: You haven't provided a
5 selection or anything?

01:47PM

6 MR. BULLOCK: No.

7 MR. GARREN: This, I think from what you
8 have given us, would be a complete document.

9 MR. EHRICH: Okay.

10 MR. GARREN: As far as I know.

01:48PM

11 MR. BULLOCK: Consecutively page numbered.

12 MR. EHRICH: Understood. You've had -- you
13 know, you've endeavored to recreate here what you
14 found in the document these are consecutively
15 numbered. We can ask him what it appears to be.

01:48PM

16 MR. GARREN: That is your extension.

17 MR. EHRICH: Good. Thank you. Maybe we
18 can make that representation on the Record.

19 MR. GARREN: I think we just did.

20 MR. BULLOCK: We never went off.

01:48PM

21 MR. EHRICH: All right.

22 MR. GARREN: Fine.

23 Q Do you know what this document is?

24 A I believe I know what this document is.

25 Q Have you seen it before?

01:48PM

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1 A Yes.

2 Q Tell the court what it is.

3 A If it all the way through is what it appears
4 to be, I have seen it. This was a training manual
5 put together with the help of the Virginia Poultry 01:48PM
6 Federation and Virginia Farm Bureau as a guide for
7 use as House Bill 1207 came into effect in Virginia.

8 Q That House Bill 1207 in Virginia was at what
9 time frame?

10 A The bill I believe passed in 1999. 01:49PM

11 Q Okay. That's my recollection. So what was --
12 how was it that this came to be in the Cargill
13 records that were produced to the State; who would
14 keep this manual?

15 A I haven't looked at this for a long time, but 01:49PM
16 it probably was in my possession.

17 Q Okay, and did you participate in the
18 preparation or production of parts or all of this
19 document?

20 A It's my recollection that the pieces of this 01:49PM
21 document, and there are a number of different pieces
22 here, came from a number of different sources. I
23 was on the committee that helped pull all those
24 pieces of information together.

25 Q Okay, and you can look at the very first page. 01:49PM

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1 Under training manual heading training task force
2 and next to the bottom line your name appears there;
3 do you see it?

4 A That's correct.

5 Q Okay. Is that the committee that you are 01:49PM
6 referring to?

7 A Yes.

8 Q And tell me again what your responsibilities
9 were as it pertains to this manual.

10 A There were some company representatives to 01:50PM

11 this task force. The information was pulled
12 together by members of the Virginia Department of
13 Conservation and Virginia Department of

14 Environmental Quality and certainly I think Hobie
15 Bowen and Wilmer Stoneman. Hobie Bowen was with 01:50PM

16 Virginia Poultry Federation -- is with the Virginia
17 Poultry Federation. Wilmer Stoneman works for the
18 Virginia Farm Bureau Federation. They were
19 instrumental in helping to pull this together.

20 Q What was the purpose of it; how did it -- 01:50PM
21 what's the purpose of it? Answer that first.

22 A This document was put together just to serve
23 as an educational piece of information for poultry
24 growers in Virginia. House Bill 1207 was -- I'm not
25 sure of the exact date of this document, but House 01:51PM

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1 Bill 1207 was coming into effect, and so there
2 was -- the thought was that there was a need for
3 growers to be educated in that area.

4 Q How did Rocco use this document?

5 A It's my recollection that we gave this 01:51PM
6 document to all of our growers.

7 Q In the Virginia --

8 A At the time, in Virginia.

9 Q Did you ask them to read it, understand it and
10 abide by it? 01:51PM

11 A There are different pieces of this document to
12 my recollection. I'd have to read through it, but
13 certainly part of this document is House Bill 1207
14 itself, and our policy is always to abide by the
15 state and federal laws that affect our business, so 01:51PM
16 that part of it was regulation. Other pieces of
17 this is more served as best management practices,
18 and there are parts of this document to my
19 recollection that have to do with nutrient
20 management. Some of those are site specific things. 01:52PM

21 Q Did the use of this manual continue after
22 Cargill acquired Rocco?

23 A I don't remember redistributing this
24 information. I remember distributing it once.

25 Q To the extent that a contract grower was still 01:52PM

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1 with Rocco when Cargill took it over, they would
2 have received this document; correct?

3 A They would have received it in the Rocco time
4 frame. They may still have it.

5 Q All right. Would you agree with me that one 01:52PM
6 of the important things Rocco or Cargill could do in
7 order to claim to be a good steward would be to be
8 educated and informed about the effects of their
9 poultry growing operations on the environment?

10 A Our intent is to help to educate our growers. 01:53PM
11 Certainly they manage their operations, and we've
12 talked about all the site specific things to those
13 operations. We've tried to be helpful through the
14 years distributing educational information.

15 Q Let me ask you this: Do you agree with me 01:53PM
16 that Cargill professes to be a good environmental
17 steward?

18 MR. EHRICH: Object to the form.

19 A We strive to be good environmental stewards.

20 Q Okay. As part of that, would you agree with 01:53PM
21 me that being educated on the effects of growing
22 poultry -- let me restate it. Being informed or
23 educated on the effects of the environment from
24 poultry growing operations would be part of that
25 obligation as a good steward? 01:53PM

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1 MR. EHRICH: Object to the form.

2 A I think it's important for us, as Cargill, and
3 our contract growers to understand the risk
4 associated with land application of poultry litter.

5 Q Let me hand you what's been marked as Exhibit 01:54PM
6 9 and I'll make some representations to you. There
7 are some dividers --

8 A Are we done with this one?

9 Q Yes, sir, we are. There are some color paper
10 dividers, and although we've tabbed this as Exhibit 01:54PM
11 9, there are other portions that are like 9A, B, C,
12 and D that occur at the colored paper divider.

13 A Do you want me to look through this whole
14 document?

15 Q No. I'm going to ask you about certain parts 01:54PM
16 of it as we go through, but I'm trying to give you a
17 -- some road map of how it's compiled.

18 MR. EHRICH: Counsel, can you represent
19 what this is? You've got documents here that span,
20 well, you know, seven, eight years, different 01:54PM
21 companies. They're all put together in one
22 document. Is it suggesting --

23 MR. GARREN: I'm about to do that, Counsel,
24 but I was trying to give him a road map of how he
25 can navigate it first and then I'll represent to you 01:55PM

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1 what it is.

2 MR. EHRICH: I think you've got that
3 backwards. Why don't you represent to me what it is
4 before --

5 MR. GARREN: Okay. Well, I'm doing the 01:55PM
6 deposition.

7 MR. EHRICH: I think you've got an
8 obligation --

9 MR. GARREN: I told you I'm going to
10 fulfill that obligation but just because I'm not 01:55PM
11 doing it in the manner you suggest, doesn't mean
12 it's done wrong. So if I may just complete my
13 inquiry, make your objection and we'll move forward.

14 MR. EHRICH: But I think my inquiry is
15 relevant if you're going to ask this witness any 01:55PM
16 questions before we know what you've put together.
17 Otherwise, we're going to sit here and read the
18 document so we know from an independent --

19 MR. GARREN: No, we're not. If you'll just
20 wait, you are just a little bit too premature. I 01:55PM
21 will get there. Okay?

22 MR. EHRICH: You have my concerns for the
23 Record.

24 Q Mr. Maupin, this is marked Exhibit 9. There
25 are subparts to it that are like 9A through 9E. 01:55PM

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1 You'll find those subparts divided where the colored
2 paper dividers are placed in this document. May I
3 assist you for a second?

4 A I just want to make sure I understand.
5 There's no divider between these. These appear to
6 be separate documents.

01:56PM

7 Q Let me show you, if I may.

8 A All right.

9 Q Apparently they didn't get marked that way.

10 Do you see where the yellow page exists here?

01:56PM

11 A I see the yellow page.

12 Q When I refer to a document -- this was
13 supposed to have been labeled 9. The next would be
14 9A and next divider would be 9B. I'll make sure
15 that we get to the Bates number. Now, do you
16 understand how we're going to try and move through
17 this?

01:56PM

18 A Okay. I understand what you're saying. I
19 just want to make sure I --

20 MR. EHRICH: Wait a minute.

01:56PM

21 Q What I'm going to represent --

22 MR. EHRICH: Counsel --

23 MR. GARREN: May I please finish?

24 MR. EHRICH: No. Counsel, I've asked you
25 to try to represent what this document is.

01:57PM

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1 MR. GARREN: I'm getting ready to do that,
2 Counsel, and you keep --

3 MR. EHRLICH: Let's talk about what this
4 thing is.

5 MR. GARREN: You keep interrupting me when 01:57PM
6 I attempt to do so. May I do that right now?

7 MR. EHRLICH: No, because I'm entitled to
8 know what this is so I can be properly prepared to
9 defend this witness.

10 MR. GARREN: I just told you I'm getting 01:57PM
11 ready to tell him that, and I've told you that twice
12 now, and I'm going to tell him right now what I have
13 compiled here so he can be familiar with it. May I
14 do so?

15 MR. EHRLICH: Perhaps you should direct that 01:57PM
16 to counsel as well then because I don't know whether
17 you are going to ask him a question before you've
18 even explained what this is. If you are
19 representing --

20 MR. GARREN: Then you are premature in your 01:57PM
21 objection.

22 MR. EHRLICH: Then I take it you will not be
23 asking --

24 MR. GARREN: Absolutely not. I've told you
25 three times that I'm going to tell him what I've 01:57PM

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1 compiled here so he can understand what it is he's
2 looking at, but you've interrupted me every time
3 I've attempted to do so, and if I may finish, I will
4 do it now.

5 MR. EHRICH: Let's see how it goes. 01:57PM

6 Q Mr. Maupin, before you, what I believe to be
7 are the environmental best management practices
8 guides, handbooks, manuals, that are compiled from
9 Rocco, Cargill Turkey Products, Inc., and then
10 ultimately I believe Cargill Turkey Production, and 01:58PM
11 I'm going to ask you about the history of the
12 development of this environmental management best
13 management guide. That is the purpose of looking
14 through this, so I can understand how it came about,
15 where it was used and by whom. Okay? 01:58PM

16 A I want to make sure I understand. Those
17 documents appear to be to the back of this. Are we
18 moving to the back of these documents?

19 Q We're going to start at the beginning and go
20 through it. I'm trying to determine if that is the 01:58PM
21 way these documents were created and by whom were
22 they created and how were they used. Okay?

23 A Okay. There are just a lot of different
24 things here.

25 MR. EHRICH: May I inquire now, Counsel? 01:58PM

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1 Thank you. That has been helpful. I don't
2 understand why we have this compiled the way it is.
3 Now, it is certainly your deposition, but I want to
4 avoid any confusion here about what these documents
5 are, whether he has actually seen them, whether he 01:59PM
6 participated in them. So I might suggest that we
7 try to separate the documents out into -- it looks
8 like about nine different documents so it's clear
9 for the Record which document we're referring to and
10 what time periods, what the relationship of this 01:59PM
11 witness is to those documents.

12 MR. GARREN: We'll refer to the Bates
13 numbers and we'll be very clear, and he can identify
14 each one as we refer to it.

15 MR. TUCKER: Let's just separate them as he 01:59PM
16 asks questions.

17 MR. GARREN: If you need to separate them,
18 you're welcome to do so.

19 MR. TUCKER: He's identified them as 9A
20 through D. 01:59PM

21 Q Mr. Maupin, the very first page of this
22 document, 138973, do you see that?

23 A Yes.

24 Q Can you tell me what a Rocco turkey grower
25 council meeting minutes represents? 01:59PM

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1 A I haven't seen this document but --

2 Q Did you participate in what is referred to as
3 Rocco turkey grower council meetings?

4 A I'm sure over the years that I probably have
5 participated. This looks like the minutes of a 02:00PM
6 particular meeting, and it appears I was not there.

7 Q Okay. Do you remember an issue with regard to
8 Coronavirus affecting birds of Rocco in the late
9 '90's?

10 A Yes. We have had birds infected by 02:00PM
11 Coronavirus.

12 Q Do you recall where those farms were mapped in
13 a GPS system to identify where disease occurred?

14 A I wasn't actively involved in that mapping,
15 but I remember that there was some mapping done 02:00PM
16 during that time.

17 Q All right, and the purpose of that mapping was
18 to be able to identify a particular farm at a
19 location and whether it's infected with a disease;
20 is that a fair statement? 02:01PM

21 A We were trying to stop the spread of the
22 disease. I should paraphrase that. We, being
23 Rocco, were trying to stop the disease. I wasn't
24 technically in a live production function at that
25 point. 02:01PM

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1 Q All right. What was the purpose of having
2 these Rocco turkey grower council meetings?

3 A They were educational in nature. It was a way
4 for us to interact with growers, share information,
5 let them understand why we were doing business in a 02:02PM
6 certain way.

7 Q Is one of those meetings, is that -- let me
8 ask you this: The training manual that we looked at
9 earlier, Plaintiff's Exhibit No. 2, would that have
10 been disseminated and explained at one of those type 02:02PM
11 of meetings or would it have been done separately?

12 A Can you restate that question?

13 Q The Exhibit 2, the manual that we talked about
14 earlier, would that have been explained and
15 disseminated at one of those grower council meetings 02:02PM
16 that we just talked about?

17 A It could have been or it could have been in a
18 broader meeting with all growers.

19 Q Okay, and would those grower council meetings
20 be utilized you say for educational purposes to 02:02PM
21 disseminate other written materials from time to
22 time?

23 A Could be.

24 Q Skip over to 139112. It's the third or fourth
25 page. 02:02PM

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1 A Are we done with this one?

2 Q We're going down through the stack, sir. You
3 may lay it over and keep it in order.

4 MR. EHRICH: Well, you're still in Exhibit

5 9. 02:03PM

6 MR. GARREN: I'm still in the first portion
7 of that exhibit.

8 A These are different things.

9 Q I know they are. With regard to the second --

10 MR. EHRICH: Counsel -- 02:03PM

11 MR. GARREN: Please don't interrupt any
12 further.

13 MR. EHRICH: You're now asking him about
14 these various pieces that you've put together in
15 your way, in your own way. I think we have to have 02:03PM
16 that foundation before you ask him these questions.

17 Q Mr. Maupin --

18 MR. EHRICH: I'm asking you to do that.

19 Q Mr. Maupin, looking at the next document
20 beginning at 139112, have you seen that document 02:03PM
21 before? It should continue on a consecutively
22 numbered page to the next color divider.

23 A Going to the yellow divider, that's this
24 document.

25 Q What's the last Bates number that you see 02:04PM

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1 there?

2 A 139143.

3 Q Do you recognize this document?

4 A Yes, I do.

5 Q Can you tell the court what it is? 02:05PM

6 A This appears to be an environmental best
7 management practices guide that I accumulated in the
8 late '90's for contract poultry producers at Rocco.

9 Q And how was this guide utilized at Rocco in
10 the late '90's? 02:05PM

11 A I accumulated these documents from a number of
12 different sources and there are a number of
13 different topics, and we distributed these to all of
14 our growers as an educational guide in an effort to
15 be helpful with nutrient management, litter storage, 02:05PM
16 all the things in the table of contents, calibration
17 of equipment, disease control, insect control,
18 litter control, all those things.

19 Q Did you intend for the materials you gave them
20 to be truthful and accurate? 02:06PM

21 A I didn't write this document, but I put
22 together the pieces of it, and they came from a
23 number of different sources, and at the time these
24 were things that were being used in the industry and
25 in particular, in Virginia. 02:06PM

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1 Q Did you read what you had compiled before you
2 gave it to the growers?

3 A At that time I had read this document, yes.

4 Q And did you believe that it was true and
5 correct in its instruction or educational material 02:06PM
6 that was provided?

7 A I don't want to say that every word in this
8 document is a word that I would have chosen, but
9 certainly the basic premise of the document I agreed
10 with, and our goal was to educate growers on 02:06PM
11 nutrient management and the other items that I
12 talked about previously.

13 Q Would you agree with me that since you
14 compiled it, you could have easily edited any
15 portions that you felt were inaccurate or not 02:07PM
16 truthful, could you not?

17 A It could have been, but I had some concern at
18 that time about context and changing paragraphs
19 around in the document, so more or less it was
20 compiled. 02:07PM

21 Q You didn't intend to give your growers
22 something that wasn't useful or inaccurate, did you?

23 A No. The intent was not to be inaccurate with
24 our growers.

25 Q Do you know the time frame other than the late 02:07PM

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1 '90's in which this was compiled? Let me be more
2 specific as to when you thought this was created.

3 A I don't know the exact date that this rolled
4 out. Certainly there's a date specific on Page 32,
5 by your number 139143, that talks about January 1st, 02:08PM
6 1999. So my recollection is that date could have
7 been pre-January 1st, 1999.

8 Q Okay. Go past the color divider and we're
9 going to look at an E-mail.

10 A Are we done with this one? 02:08PM

11 Q Yeah. You can turn it over. The E-mail is
12 attached to another Cargill Turkey Products grower
13 environmental policy document, and the E-mail is
14 there because it's in numerical order with the
15 document as it was presented to us from Cargill, and 02:08PM
16 it begins at Bates number 121800. Do you see that
17 E-mail?

18 A Yes.

19 Q And are you a recipient of that E-mail as
20 shown in the top? 02:08PM

21 A Yes.

22 Q And the date of that E-mail was April 16,
23 2002, is it not?

24 A That's correct.

25 Q Can you tell me who Tiffany Setchel is? 02:08PM

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1 A She was a secretary, receptionist at the front
2 desk at what was the Rocco corporate office and
3 later the Cargill office in Virginia.

4 Q All right. Do you know who -- who is Billy --
5 I think it's Gueringer? It's in the middle of the 02:09PM
6 page, another E-mail string.

7 A At the bottom of 121800?

8 Q We're on the same page.

9 A Billy Gueringer, he's the environmental health
10 and safety manager at Waco, Texas Cargill. 02:09PM

11 Q Take a minute and glance through the document,
12 through Page 121833, which is the end of the
13 document, and I want to ask you if you know what
14 this document is.

15 A Are we done with this one? 02:09PM

16 Q With the E-mail for now. You can read it in
17 order to put it in context. I think it assists you
18 now.

19 A You said for now. Do I need --

20 MR. EHRICH: Put that one there. 02:10PM

21 A The question is --

22 Q I just want you to familiarize yourself with
23 the next document that's in sequential order to the
24 E-mail Bates number. This document starts at
25 121802. The document you'll find ends at 833. 02:10PM

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1 Having looked at that, do you know what that
2 document is?

3 A This appears to be a draft of the Cargill
4 Turkey Products grower environmental policy.

5 Q Do you know who was responsible for compiling 02:11PM
6 this or authoring it?

7 A I compiled this document.

8 Q Okay, and do you know when you did?

9 A Along with Tim Alsup.

10 Q Okay, and do you know when you did that? 02:12PM

11 A My recollection is it was in 2002. I do want
12 to clarify one thing. This appears to be a draft.
13 I notice there's a few typos in this. So I don't
14 know. It's not marked as a draft but it might be.

15 Q This is the way it was given to me from 02:12PM
16 Cargill. I can't opine as to what it is. I'm just
17 asking you.

18 A Okay. I just wanted to make that reference
19 because I saw a few typos in it.

20 Q If you look at the first pages of this portion 02:12PM
21 where the E-mail is seen on the left there, these
22 documents were in numerical order. Look at document
23 121800.

24 A Okay.

25 Q Have you looked at that first paragraph in the 02:12PM

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1 first E-mail? It says, you said that you wanted it
2 to look like the original Rocco policy book.
3 Therefore, I added the borders and such. Does this
4 reflect your recollection that this was a work in
5 progress? 02:13PM

6 A Yes. I think I remember that she retyped this
7 document and that may be the reference to it.

8 Q So do I take from this then that the Cargill
9 Turkey Products did not have an environmental manual
10 at this time and, therefore, you utilized the one 02:13PM
11 that had been previously used by Rocco to create
12 such a manual for Cargill Turkey?

13 A That was the basis for the Cargill Turkey
14 Products environmental manual, that's correct.

15 Q So do you know whether or not Cargill Turkey 02:13PM
16 had an environmental manual for its contract growers
17 before you created this document in 2002?

18 A I don't know that they did. I haven't seen it
19 if it existed.

20 Q Okay. Let's go to past the next color 02:13PM
21 divider.

22 A Are we done with this one; are we done with
23 these?

24 Q You can turn it over. Probably easier if you
25 did. If you glance through this beginning at Page 02:14PM

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1 151, the Bates numbers, through Page 182, does this
2 appear to be more of the final draft or is it a
3 final draft, if you know, of the Cargill Turkey
4 Products, Inc., environmental best management
5 practices guide dated April 2002? We're about to 02:14PM
6 run out on the tape. Let's take a break and allow
7 him to finish going through this stack and we'll
8 resume my questions of it.

9 A Want me to finish on the Record or off the
10 Record now? 02:15PM

11 Q You can continue to review and familiarize
12 yourself with it off the Record and we'll come back
13 and ask you questions.

14 VIDEOGRAPHER: We are now off the Record.
15 The time is now 2:13 p.m. 02:16PM

16 (Following a short recess at 2:15 p.m.,
17 proceedings continued on the Record at 2:30 p.m.)

18 VIDEOGRAPHER: We are now back on the
19 Record. The time is 2:29 p.m.

20 Q All right. Mr. Maupin, off the Record you 02:30PM
21 were given the opportunity to look through the
22 remainder of Exhibit 9; correct?

23 A That's correct.

24 Q And we're looking at that portion of Exhibit 9
25 that starts with CARTP 151. Do you see that? 02:30PM

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1 A Yes.

2 Q Tell us what that document is.

3 A This looks like a version of the Cargill
4 Turkey Products grower environmental best management
5 practices guide. 02:30PM

6 Q And if you look at the second page of that
7 document, Page 152 on the Record, looking at the
8 very top it says Cargill Turkey Products grower
9 environmental policy, does it not, the heading?

10 A Yes. 02:30PM

11 Q And if you look at the very last sentence of
12 that document, it says this document describes
13 Rocco's policies regarding stewardship by contract
14 poultry producers. Can you explain that?

15 A It's not my understanding that that's exactly 02:31PM
16 what that says.

17 Q What does it say?

18 A This document does not pertain to the whole
19 environmental best management practices guide. It
20 only addresses this policy, which is one page, and 02:31PM
21 that's 0152, that number. That's a standalone page,
22 which is Cargill's environmental policy.

23 Q And do you see where that's in sequential
24 order to 152, and the next page, 153, is the table
25 of contents of that guide? 02:31PM

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1 A Yes, that's correct, but the document that's
2 discussed in that last sentence is this document
3 0152 because this is the policy. The rest of this
4 is the best management practices guide. This was
5 attached to the front of the guide when we 02:32PM
6 distributed it.

7 Q All right. So it would be part of the handout
8 to the grower is what you are saying?

9 A It was handed out to the growers, but the
10 environmental policy regarding key environmental 02:32PM
11 issues is this one page.

12 Q I agree. I understand.

13 A I just want to make sure.

14 Q The point I'm trying to make is even though it
15 purports in the title to be the Cargill Turkey 02:32PM
16 Products, there appears to be a typo that describes
17 it as Rocco's policies in the last sentence, and
18 that is, in the evolution of this document from
19 Rocco to Cargill Turkey, perhaps a typo or can you
20 explain that? 02:32PM

21 MR. EHRICH: Again, just so we're clear,
22 it's Document 0152.

23 MR. GARREN: Correct.

24 A Okay. This document to me appears to be a
25 draft, and the reason I say that is the first page, 02:32PM

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1 as I recall, when we put this out, it had the
2 broader print on it instead of the smaller print,
3 and so I'm not sure. It doesn't say that, but I'm
4 not sure.

5 Q Look at 152 and let me try to clarify my 02:33PM
6 question.

7 MR. EHRICH: May I, Counsel, really because
8 we're using this and that and this page and it is --
9 maybe I'm slow on the uptake, but it's unclear that
10 the this you are referring to as a draft is a 02:33PM
11 document that begins on 0151.

12 A It appears it could be because the print
13 doesn't look like maybe what the final version was
14 on that first page.

15 MR. EHRICH: Okay. 02:33PM

16 A That's my recollection.

17 MR. GARREN: The next page in sequential
18 order is the policy, and he's telling us it was not
19 part of the guide but it was given out at the same
20 time. 02:33PM

21 MR. EHRICH: That's what I heard him say,
22 yes.

23 Q The third page of this document 153, is a
24 table of contents; do you see that?

25 A Yes. This -- 02:33PM

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1 MR. TUCKER: When you say this, say what is
2 this.

3 A Can I clarify?

4 MR. EHRLICH: Refer to the numbers, please.

5 A Okay. 0152 was inside the best management 02:34PM
6 practices guide. This was Cargill Turkey Products'
7 grower environmental policy. It is I guess the
8 policy. That document is not a part of the
9 environmental best management practices guide, the
10 body of the document. 02:34PM

11 Q I understand you.

12 A It stands alone.

13 Q I understand that.

14 A It is the first page in the document but it
15 stands alone. 02:34PM

16 Q I understand that. I guess my question to
17 you, though, is, was Cargill Turkey Products
18 operating Rocco by the name of Rocco at some time
19 because this guide or this environmental policy at
20 Page 152 refers both to Cargill is dedicated to 02:34PM
21 being a good environmental steward, but then it goes
22 to the very last sentence or last sentence and says
23 this document describes Rocco's policies. So would
24 Rocco have been operating under the name Rocco while
25 Cargill Turkey was in fact the owner? 02:35PM

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1 A No, they weren't, and that's another reason
2 that makes me think this is a draft.

3 Q That is my point. We're in agreement. There
4 is another part of the transition from what you've
5 described that Rocco had an environmental policy,
6 Cargill didn't, Cargill adopted apparently the Rocco
7 version and you were in the process of creating that
8 for Cargill; does that seem to be a fair statement
9 of what was going on then?

02:35PM

10 A That's basically correct, yes.

02:35PM

11 Q Go to the next color divider, and it will be
12 Bates stamp number CARTP 005, past the next colored
13 divider.

14 MR. EHRICH: Counsel, I think that there's
15 some confusion here now. When you're talking about
16 documents, that's one thing, but to say that there
17 may be some policy irrespective of the document I
18 think needs to be clarified.

02:35PM

19 MR. GARREN: He's testified --

20 MR. EHRICH: He's talking about documents.

02:36PM

21 MR. GARREN: He testified that the one page
22 was a policy, not part of the handbook, but that it
23 was distributed with the handbook and simply
24 described the policy.

25 MR. EHRICH: But what you haven't asked is

02:36PM

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1 when that policy was prepared and did one exist
2 before that. You might ask. I think that --

3 Q Would you agree, sir, that the policy at Page
4 152 was in existence when the draft of April 2002
5 was created? 02:36PM

6 A I don't remember the exact time frame of which
7 one of those documents was created first.

8 Q Why would Cargill give me a policy that you
9 say is a standalone document and bury it in between
10 pages that consist of a handbook then? 02:36PM

11 MR. EHRICH: Object to the form of the
12 question. It's argumentative.

13 MR. GARREN: It is argumentative because
14 you've done a good job of trying to confuse the
15 Record as to what this is. 02:37PM

16 MR. EHRICH: I'm not trying to confuse the
17 Record. There's any -- why don't you ask -- any
18 number of reasons why when we produced these
19 documents, that may have come from notebooks, may
20 have come from files that are personal files that 02:37PM
21 are disorganized that he gets there. You're
22 suggesting there's some nefarious purpose, and
23 that's not appropriate.

24 MR. GARREN: Only to the extent that you
25 are saying there's confusion here, so -- 02:37PM

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1 MR. EHRICH: Let's not have the argument.

2 Q Let's look at Page 152 one more time.

3 A John took 152 from me.

4 MR. EHRICH: Here we go.

5 Q Do you see where the nutrient management plans 02:37PM
6 are effective January 1, 2004 in the second
7 paragraph of that document?

8 A Yes, first sentence.

9 Q Would you agree then that this policy page as
10 we see it here was created prior to that date? 02:37PM

11 A Yes, it certainly probably was.

12 Q And do you have an opinion as to whether or
13 not it was created at or before April 2002, which is
14 the date on the handbook starting at Page 151?

15 A If it was a part of that draft document, it 02:38PM
16 was created on or before April 2002. That's my
17 recollection.

18 Q And that's the appearance that you get in the
19 way that this has been compiled by Cargill and
20 presented to the State of Oklahoma; would you agree? 02:38PM

21 A Yes. I don't know which one came first. They
22 were similar time frames.

23 Q All right.

24 MR. EHRICH: Thank you, Counsel.

25 Q Let's move forward then into this document, 02:38PM

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1 and I believe you are there. Page CARTP 5, tell the
2 court what that document is.

3 A This appears to be a later draft or the final
4 version, I can't tell you which one, of that policy,
5 and the reason I say that is the first line of the 02:39PM
6 nutrient management plan section says have or have
7 applied for a nutrient management plan. That was
8 the final language.

9 Q What number are you referring to, Bates
10 number? 02:39PM

11 A 007.

12 Q Look at Page 006. It says on that page the
13 goal of this publication is to inform turkey
14 producers of Cargill of approved methods of poultry
15 litter land application, litter storage and 02:39PM
16 mortality disposal. Is that the goal of this
17 document?

18 A Yes.

19 Q This shows that this is in the last sentence
20 referring to Cargill Turkey Products, Inc., does it 02:39PM
21 not?

22 A Yes.

23 Q All right. Is this a document that was
24 derived from Rocco's environmental policy, if you
25 know? 02:39PM

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1 A That was the original basis of the document.

2 Q Okay, and this document or this appears to be
3 a final version of this document was also
4 distributed to the growers, correct, Cargill
5 growers? 02:40PM

6 A The final version was distributed, yes.

7 Q Was that distribution limited to Virginia; was
8 it all contract growers that Cargill had at the
9 time?

10 A We gave this to all contract growers we had at 02:40PM
11 the time.

12 Q That would include those in Oklahoma,
13 Arkansas, Missouri?

14 A Yes.

15 Q Okay. Let's go to the next divider at Cargill 02:40PM
16 Page 100974. I'll represent to you that this was
17 presented by Cargill to us. That shows it came from
18 your files with a date on it 2002, October 17th.

19 A Okay.

20 Q Does this appear to be just another one in the 02:41PM
21 line of drafts of the environmental policy and
22 handbook, or could it simply be a reformatting of
23 the same document?

24 A The version -- is this the set I just had in
25 my hand? 02:41PM

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1 MR. TUCKER: Yes.

2 A This document that begins with Page 0005 I
3 believe to be a later version of the policy than the
4 one dated January -- I mean the document that starts
5 with number 100974.

02:41PM

6 Q Okay. So 100974 came before 0005?

7 A I think so.

8 Q Okay, and let's go then to the next divider at
9 Page 0342. We have another document entitled
10 Cargill Turkey Products, Inc., contract grower
11 environmental best management practices guide,
12 January 2003. Do you see that document at Page 342?

02:42PM

13 A 0342?

14 Q Yes, sir.

15 A Yes.

02:42PM

16 Q This then would be a later version or the
17 latest version of those that we've looked at; is
18 that what I understand?

19 A I'm only basing my -- from what I'm seeing
20 here with a very short glance, we tried to pull the
21 language for nutrient management plans. We tried to
22 make that very similar to what was in our contract,
23 and so the contract language was have or have
24 applied for a nutrient management plan, and this
25 version says have a plan, and there were a backlog

02:42PM

02:43PM

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1 of plans in that area and during that time, so plans
2 to be written, so I would take it that the other
3 version --

4 Q 005?

5 MR. TUCKER: What are you looking for? 02:43PM

6 A 0152 to be a later version than 0342.

7 MR. TUCKER: 0151?

8 A No. It had the broad print on it.

9 MR. GARREN: It's 005.

10 MR. TUCKER: 005? 02:43PM

11 A The one with the broad print. This one. That
12 one is have or have applied for. This one I take to
13 be -- what was the number again on that one?

14 MR. TUCKER: 005, et seq.

15 A I think 005 is a later version than 0342. 02:44PM

16 Q Okay. So based on the ones we looked at, 005
17 would be the latest in the versions that we've
18 looked at from the best you can tell?

19 A From my recollection of the language in the
20 first document. 02:44PM

21 Q Nonetheless, one or more of these versions
22 were distributed to the contract growers, all of
23 Cargill's contract growers at some time?

24 A One version was distributed.

25 Q Right, and do you know the date of the 02:44PM

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1 distribution of the environmental policy -- the
2 environmental policy and the handbook guide were
3 distributed?

4 A My recollection is it was late 2002 or early
5 2003, and I don't know the exact date. 02:44PM

6 Q So the earliest that a contract grower would
7 have received from Cargill something similar to a
8 best management guide for environmental purposes
9 would have been that time frame that you just
10 described? 02:45PM

11 A Yes.

12 Q This may only confuse us, but let's look at
13 Exhibit 8 because we're clear now.

14 A Are we done with these?

15 Q Yes. Give those to your counsel over there. 02:45PM

16 A You can sort this out.

17 Q I'm handing you what's marked as Exhibit 8,
18 and I'm going to apologize now because it appears --

19 MR. TUCKER: 8?

20 MR. GARREN: Yes. 02:45PM

21 MR. TUCKER: We're getting off this 9?

22 MR. GARREN: Uh-huh, yeah. We're going to
23 8 now.

24 MR. TUCKER: You have --

25 MR. BULLOCK: Do we want to go off the 02:46PM

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1 Record for just a second while you finish your
2 shuffle over here?

3 MR. TUCKER: We're just trying to get it
4 straight.

5 MR. BULLOCK: I'm not criticizing. I was 02:46PM
6 suggesting that rather than have three things go on
7 in the room --

8 MR. GARREN: Let's go off the Record. You
9 guys get ready and then we'll go forward.

10 VIDEOGRAPHER: We are now off the Record. 02:46PM
11 The time is 2:45 p.m.

12 (Following a short recess at 2:46 p.m.,
13 proceedings continued on the Record at 2:49 p.m.)

14 VIDEOGRAPHER: We are now back on the
15 Record. The time is 2:49 p.m. 02:49PM

16 Q Mr. Maupin, while we were off the Record, we
17 discussed the contents of Exhibit 8, and I explained
18 to you that the first few pages, 151533 through 538,
19 were attached to the front of what appears to be
20 another environmental policy and/or handbook. I 02:50PM
21 only did that for purposes of trying to establish
22 some correlation since they were presented to us in
23 this numerical order. They may or may not establish
24 that correlation. But do you know what a live ops
25 nutrient management meeting is that is the first 02:50PM

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1 page at 151533?

2 A My recollection is that this was a meeting
3 that I attended in Texas with some of the names you
4 see in the column there, employees of the Texas live
5 operation, and the discussion was about nutrient
6 management and training and best management
7 practices.

02:50PM

8 Q I'm going to direct your attention to the
9 third column that says description and the second
10 box that starts with B. Gueringer, commit Rocco farm
11 enviro on BMP's to electronic format to use as
12 template for Cargill business unit and Tim Maupin
13 update manual to be utilized throughout turkey
14 business unit of Cargill. Do you see that; did I
15 read that substantially correct?

02:50PM

02:51PM

16 A Yes.

17 Q There's a date in that column in front of
18 that, 9-26-01, which is the date of that meeting.
19 Does that help you in recollecting how these manuals
20 came about in the time frame?

02:51PM

21 A Yes. This was early on. The Cargill purchase
22 of Rocco had happened only about a month before
23 this, and so this was probably one of my first
24 visits to the Texas operation, and we were in the
25 process of trying to educate our employees and

02:51PM

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1 growers, and certainly the best management practices
2 manual was being discussed at that point.

3 Q So it appears you were tasked then to, first,
4 commit Rocco farms environmental best management
5 practices to electronic format and then prepare that 02:52PM
6 for distribution to all of the Cargill units or
7 Cargill producers; is that your interpretation of
8 that?

9 A Yes.

10 Q Okay. Skip over, if you would, then to the 02:52PM
11 151540 page, about seven or eight pages, 540. It
12 appears to be another environmental policy or part
13 of a manual.

14 A Okay.

15 Q That document shows in the first paragraph -- 02:52PM
16 second paragraph -- well, the paragraph under
17 nutrient management plans that effective October 1,
18 1998 all contract poultry producers doing business
19 with Rocco or one of its divisions must have in
20 place a valid nutrient management plan. Was this 02:53PM
21 then probably the document used in Virginia with an
22 effective date of '98 when the ordinance went into
23 effect in Rockingham County?

24 A I don't know about this exact draft. I
25 believe this was probably a draft of the 02:53PM

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1 environmental best management practices manual in
2 Virginia.

3 Q And the table of contents of that manual
4 appears in the next page?

5 A Correct. 02:53PM

6 Q And this appears then to be a similar
7 environmental best management practice handbook. My
8 question to you is, is this one that may have been
9 used at Rocco on or before 1998?

10 A I don't believe it was used before 1998. I 02:53PM
11 just can't recollect if this is a final draft or a
12 draft.

13 Q Well, it does say that this would presume that
14 since it says effective October 1, 1998, all growers
15 shall have a nutrient management plan. Wouldn't you 02:54PM
16 assume that they would have been in receipt of this
17 document before that date so they could comply?

18 A It could be. I just can't remember if that's
19 the draft or not. That's my question. I'm not
20 positive of the date. 02:54PM

21 Q It might have been another draft or a final
22 version of this same document that we're seeing here
23 is what you are saying?

24 A It was in that time frame, but I don't know
25 about the exact date. 02:54PM

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1 Q So based on this, so that I understand your
2 testimony, it appears that Rocco had sometime at or
3 before 1998 some form of an environmental policy and
4 a best management practices guide; correct?

5 A I was working on it during 1998. 02:54PM

6 Q Okay. Was that distributed to Rocco growers
7 before Cargill acquired Rocco in 2001?

8 A Yes. The final version of that was
9 distributed to the Rocco growers.

10 Q So Rocco was ahead of Cargill in putting 02:55PM
11 together an environmental best management practices
12 guide the best you can determine?

13 MR. EHRICH: Object to the form of the
14 question, lack of foundation.

15 Q I think you said something similar to that 02:55PM
16 earlier. I'm just trying to clarify in my mind what
17 you said.

18 A Rocco had an environmental best management
19 practices guide in place before Cargill did.

20 Q Okay. Exhibit 8, that portion beginning at 02:55PM
21 151540, would there have been substantive
22 differences in this version from what might have
23 been the final version to your knowledge?

24 A I don't recall. I guess if I had them laying
25 side by side, I could tell you the answer to that. 02:56PM

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1 They appear similar.

2 Q You can put that aside now. We'll go to a new
3 exhibit. I'll ask you to look at Exhibit 26. This
4 appears to be an E-mail from Jay Starkey at
5 poultryegg.org on November 6th, 2003, to several 02:57PM
6 recipients, including you, down toward the middle of
7 it. Please look at it and I'm going to ask you a
8 question about it. Mr. Starkey was associated with
9 the U. S. Poultry & Egg Association; correct?

10 A Still is. 02:58PM

11 Q Still is, and do you know what his title is
12 there?

13 A He heads that organization. I'm not sure if
14 the title is president or executive vice-president.
15 At the time of this document he was in charge of 02:58PM
16 environmental affairs for that group.

17 Q Okay. Do you remember -- the subject matter
18 of this E-mail says draft CAFO primer for poultry
19 growers. Do you remember seeing such a document?

20 A It's possible I did, but I don't recall any 02:58PM
21 detail about it.

22 Q CAFO stands for concentrated animal feeding
23 operation, does it not?

24 A Yes.

25 Q Looking at what would be the third paragraph 02:58PM

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1 of that E-mail stating I should have provided
2 background; do you see that?

3 A Yes.

4 Q The next sentence says, several industry
5 leaders had said to me that they were concerned 02:58PM
6 about providing growers any detailed information on
7 the regulation, its impact on them, the permitting
8 process, et cetera. Their companies did not feel
9 comfortable in providing guidance to the growers on
10 this. Do you recall whether or not Cargill was one 02:59PM
11 of those companies that may have expressed that they
12 did not feel comfortable in providing the
13 information?

14 MR. EHRICH: Object to the form of the
15 question, lack of foundation. 02:59PM

16 A I don't recall that we were.

17 Q Do you recall specifically one way or the
18 other?

19 MR. EHRICH: Asked and answered.

20 Q You don't recall anyway? 02:59PM

21 A No, I don't recall that we felt that way or --
22 and I don't recall who in particular felt that way.
23 John Starkey may have known but I don't know that I
24 knew.

25 Q Okay. 02:59PM

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1 MR. EHRICH: Counsel, I may not have heard
2 it, but did you ask this witness whether he had
3 actually seen this exhibit?

4 Q It's addressed to you. Did you not receive
5 this document? 02:59PM

6 A It's possible I did. I don't remember this
7 E-mail, but it's possible I did.

8 MR. EHRICH: Thank you.

9 MR. GARREN: Why don't we go off the Record
10 a second and we'll look at this document and discuss 03:00PM
11 how we need to present it.

12 VIDEOGRAPHER: We are now off the Record.
13 The time is 2:59 p.m.

14 (Following a short recess at 3:00 p.m.,
15 proceedings continued on the Record at 3:12 p.m.) 03:12PM

16 VIDEOGRAPHER: We are now back on the
17 Record. The time is now 3:12 p.m.

18 Q Okay. Mr. Maupin, while we were off the
19 Record, we gave you what is Exhibit 30 and subparts
20 to 30, which purport to be best management practices 03:12PM
21 that aren't environmental best management practices
22 but deal more specifically with growing practices.
23 Is that what you see before you?

24 A Yes.

25 Q Our goal here is to try and ascertain which 03:13PM

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1 policy may be currently in effect for Cargill and
2 whether or not we're looking at drafts, draft
3 versions or prior versions, if you can tell.

4 MR. TUCKER: Remember, we haven't
5 identified any of these yet as to B through -- 03:13PM

6 MR. GARREN: We'll do that as he picks one
7 up.

8 Q Can you tell whether or not we have what
9 appears to be the version that is currently being
10 utilized by Cargill for its best management 03:13PM
11 practices for growing turkeys?

12 A Is the question in regard to 153616?

13 Q I'm talking about the entire stack. I'm
14 trying to identify within that stack have you seen
15 what appears to be a version that's currently being 03:14PM
16 utilized by Cargill for its growers' best management
17 practices?

18 A Can I go exhibit by exhibit?

19 Q Sure.

20 A Because there's a mixed bag here I think. 03:14PM
21 153616 appears to be a Rocco policy, so I don't know
22 that that is still in place since it was a Rocco
23 policy.

24 Q Looking at the lower left-hand corner, do you
25 see a revised May 1997 date? 03:14PM

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1 A Yes.

2 Q That would indicate that it existed prior to
3 the takeover; correct?

4 A Yes.

5 Q Go to what is then -- what we've labeled as 03:14PM

6 30A. Is that Page 150073?

7 A 140860? You want me to be on B?

8 Q I may have -- I apologize. Are you on Page
9 150073?

10 MR. TUCKER: What's the first page of that? 03:15PM

11 MR. GARREN: 150073.

12 A Oh, you're still on the first document. I'm
13 on that page now.

14 MR. TUCKER: That's not a separate document
15 or it is a separate document? 03:15PM

16 MR. GARREN: Apparently it's not been
17 marked as a separate document.

18 Q That shows a revision date of June '99 in the
19 lower left-hand corner, Mr. Maupin?

20 A Yes. I'm not positive if this is a draft or 03:15PM
21 not. Under the important phone numbers, there's an
22 error up there that makes me wonder if it's several
23 spots or is that just the way it printed?

24 Q That's the way it was presented to us, and I
25 presume the same thing to you, that it's probably a 03:15PM

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1 draft version --

2 A There are other typos in here.

3 Q -- since it shows typos or other formatting.

4 A Looks like a draft to me.

5 MR. EHRICH: Counsel, I think for the 03:16PM
6 Record your Exhibit 30, it appears the first few
7 pages are in consecutive numbered order beginning
8 153616 and going to 153619, and then it jumps to
9 150073.

10 MR. GARREN: That's right. Apparently 03:16PM
11 there should have been a divider in there but there
12 wasn't, and so he's identified the page. Since the
13 revision date was before the Rocco acquisition, I'm
14 trying to move as to what is current.

15 MR. EHRICH: Thank you. 03:16PM

16 Q Clearly Rocco had its own type of best
17 management practices in place before the acquisition
18 of Cargill, did it not?

19 A Yes.

20 Q And we've now established that 150073 appears 03:16PM
21 to be some form of a draft because it's not
22 formatted in completed form; is that correct?

23 A Appears to be.

24 Q Going to the next one, I believe it's been
25 marked A, 30A. Does it start with 140860? 03:17PM

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1 A Yes.

2 Q All right.

3 MR. EHRICH: 140860?

4 MR. TUCKER: This will be B?

5 MR. GARREN: A.

03:17PM

6 Q This shows, Mr. Maupin, that it's compiled by
7 the California live production team.

8 A Yes.

9 Q Do you know whether or not this was a document
10 that already existed with Cargill when the

03:17PM

11 acquisition took place? I guess my question should
12 be better phrased this way: To your knowledge did
13 Cargill have a best management practices handbook
14 for growing turkeys at the time that it took over
15 Rocco?

03:17PM

16 A I think there were and they were location
17 specific.

18 Q Okay. So location specific would have been
19 like by complex, Springdale or like this one shows,
20 California, Missouri?

03:18PM

21 A Yes, California, Missouri. Document Exhibit
22 30A would have been one of the location specific
23 documents.

24 Q Okay. Let's look at the next document, 30B.

25 It now has a title of Cargill Turkey Production,

03:18PM

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1 LLC, with a revision date in the lower left-hand
2 corner of June 2004 and it's Bates numbered 153693.

3 Do you see that?

4 A Yes.

5 Q Did you have anything to do with the 03:18PM
6 preparation of this document?

7 A No, I did not.

8 Q Who would have been responsible for compiling
9 the best management practices for Cargill Turkey
10 Production, LLC? 03:18PM

11 A This is one of our location guidelines. I'm
12 not positive which location it is, but our ag
13 manager at each location has been in charge of
14 compiling the documents.

15 Q So we can't tell by looking at it what 03:19PM
16 location it applies to?

17 A Not from what we have here. I don't know.
18 Could be something in the verbiage that would tell
19 me that if I had time to read it.

20 Q Look at the second page of this document, 03:19PM
21 which is 153694, do you see the different revision
22 date that appears on the second page and appears
23 then to go through the entire document; can you
24 explain why we have two revision dates on this
25 document? 03:19PM

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1 A I don't know the answer to that.

2 Q Who do you think would know the answer to
3 that?

4 A The location manager that put this document
5 together.

03:20PM

6 Q If it were Springdale, who would that person
7 be?

8 A Jason Witt is our ag manager there.

9 Q Okay. Is that the location, Springdale, that
10 would have effect over or control of the growers
11 within the Illinois River watershed?

03:20PM

12 A Springdale is the complex that contracts with
13 growers in the Illinois River watershed.

14 Q Would they also use the best management
15 practices for growing turkeys that are compiled by
16 the Springdale complex?

03:20PM

17 A Yes.

18 Q Would there be any other complex that would
19 also provide a best management practices guide
20 similar to what we see here that would have some
21 control over any other IRW grower?

03:20PM

22 MR. EHRICH: Object to the form of the
23 question.

24 A All of the growers in the Illinois River
25 watershed are contracted to the Springdale complex.

03:21PM

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1 Q That's not my question. I'm trying to find
2 out what practices, best management guide do those
3 IRW growers rely on, one that's compiled from
4 Springdale or could there be IRW growers looking at
5 two different versions of this best management 03:21PM
6 practices guide?

7 A The growers in the Illinois River watershed
8 would receive the Springdale grower best management
9 practices guide.

10 Q Okay. I believe we have another document that 03:21PM
11 is 30C, starting at a Bates number --

12 MR. TUCKER: That was 30C.

13 Q -- Bates number 149252; do you see that
14 document?

15 A Yes. 03:21PM

16 Q Can you tell from this document -- I might
17 point to you, if you look at the revision dates on
18 the first two pages again, the first one shows June
19 of 2004; do you see that?

20 A Yes. 03:22PM

21 Q When you look at the document, we see revision
22 dates of June of '99?

23 A Yes.

24 Q So we really can't tell what the revision date
25 of this document is either, can we? 03:22PM

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1 A Not from those two pages, no.

2 Q Can you tell what complex this document would
3 be from?

4 A I don't know for sure. If I had time to read
5 it, I may be able to see something that would tell 03:22PM
6 me that, but I don't see it.

7 Q If it were a Springdale document, it would be
8 again based on Jason Witt -- Jason Witt would be the
9 person to tell us that?

10 A Yes. 03:22PM

11 Q Looking at the last 30, 30D, which is another
12 best management practices guide starting at Page
13 143026, do you see that?

14 A 143026, yes.

15 Q Can you tell me where this guide would be 03:23PM
16 employed for use within Cargill's organization?

17 A I'm not positive. It's possible this one is a
18 Texas guide.

19 Q And you say that based upon what verbiage or
20 language in the document? 03:24PM

21 A There's an acknowledgment page.

22 Q On 143028?

23 A Yes.

24 Q And it acknowledges Dr. James Barton and
25 others at the first paragraph there? 03:24PM

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1 A Yes.

2 Q And those people are associated with Texas; is
3 that your belief?

4 A Ira Brister and Keith Winger were associated
5 with Texas, and I recall that Jim Ward had helped 03:24PM
6 them prepare their documents. So it's possible that
7 this is the Texas best management practices guide.

8 Q What is the purpose of the best management
9 practices guide that Cargill Turkey provides its
10 growers in the Illinois River watershed? 03:24PM

11 A Our goal is for turkey producers to be
12 successful, and so we like for them to know some of
13 the best management practices that would help them
14 in that effort. These guides cover a number of
15 different items and things that we think can help 03:25PM
16 growers be successful growing turkeys.

17 Q Is it the intention of Cargill when it gives
18 it to its growers, this guide, that they read it and
19 use it in their operations?

20 A We would hope that they would use some of the 03:25PM
21 things included in this guide.

22 Q Just some of them?

23 A Well, I'm not positive that everything in this
24 guide pertains to every grower. There are
25 differences in the farms and how they're operated. 03:25PM

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1 Q To the extent it would be applicable, you
2 would wish for them to follow the instructions and
3 guides set forth in this manual; is that correct?

4 MR. EHRICH: Object to the form.

5 A These are best management practices guides, 03:25PM
6 and certainly they don't cover everything that a
7 grower would do on his independent operation. There
8 are a lot of variables, and these are just some of
9 the things we think would help a grower to be
10 successful. 03:25PM

11 Q It covers a great deal of detail, though;
12 would you agree with me?

13 A There is a fair amount of detail to this
14 document.

15 Q If you go to Page 143045 where it says litter 03:26PM
16 management program --

17 A 143045?

18 Q Yes, sir.

19 MR. EHRICH: On Exhibit 30D?

20 MR. GARREN: Yes, sir. 03:26PM

21 A Okay. At the top, okay.

22 Q And looking at that part at the very bottom
23 where it shows clean-out, it says, and I'll read it,
24 we require cleaning the brood end to the ground
25 after each flock of an all in-out. Can you tell us 03:26PM

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1 what that means?

2 MR. EHRICH: Object to the form, lack of
3 foundation.

4 A All-in, all-out is a type of turkey operation,
5 and that's where turkeys are placed in a building 03:26PM
6 and they stay in that building until they go to
7 market.

8 Q So --

9 A The brood end is where the turkeys are
10 started. That's what it describes there. 03:27PM

11 Q So when they're smaller turkeys, they can be
12 contained in a smaller area of the barn until they
13 grow to a larger size and then they're allowed
14 further access?

15 A Typically they're moved. There are some 03:27PM
16 houses that are all-in, all-out where they would be
17 in a part of the house and then expand to the whole
18 house as they get larger.

19 Q Okay. It then goes on to say, this litter
20 must be moved to the grow-out end of the barns. So 03:27PM
21 am I to assume that there is no litter in the
22 grow-out end of the barn at that time or is this
23 usually added to what is new litter in the grow-out
24 end of the barn when it is moved pursuant to these
25 instructions? 03:27PM

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1 A The purpose of that statement is that the
2 litter from the brood end of the buildings typically
3 is mostly bedding material because the birds are
4 small, and so the intent is to reuse that litter in
5 the grow-out end of the buildings.

03:28PM

6 Q Then it goes on to say, brood only farms will
7 be cleaned on an annual basis or following a
8 disease. What does that mean; is that a different
9 operation than the all in-out operation you just
10 described?

03:28PM

11 A Yes. There are some farms that only brood
12 turkeys. They raise them until they're six to eight
13 weeks old and then they move them to a grow-out
14 facility, which is on a different farm, and so I
15 think that part of that sentence is what that
16 addressed.

03:28PM

17 Q Could the grow-out be on the same farm also,
18 though?

19 A It could be.

20 Q Okay, and so what it's saying here is when the
21 brood is completed or I'm sorry, it says brood only
22 farms will be cleaned on an annual basis. So is
23 that litter not also moved to the grow-out house?

03:28PM

24 A In the circumstance I described in that
25 sentence, brood only, there wouldn't be another

03:29PM

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1 house to move it to. They would just brood on that
2 farm. We have several farms like that in Texas.

3 Q All right. So then do we have any in the IRW
4 that way?

5 A Not to my knowledge. 03:29PM

6 Q Okay. Go to the next page where it says
7 grow-out barns. It says under clean-out, we
8 recommend cleaning grow-out barns every two years.
9 Is that still the recommendation of Cargill?

10 A That's a typical recommendation. 03:29PM

11 Q Has there been any different recommendations
12 before this document was prepared?

13 A There are some times when we get into a
14 disease situation or something with farm management
15 or moisture on a farm where that period could 03:29PM
16 change. I think the key term there is recommend.
17 That's just a recommendation from us as to how often
18 it could happen.

19 Q Has there been a recommendation to do it on an
20 annual basis in the past with Cargill? 03:30PM

21 A I think at one time that we did do it
22 annually. Still in some areas we do.

23 Q Okay, and did Rocco have similar
24 recommendations of one or two years on a clean-out?

25 A It was similar. 03:30PM

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1 Q Okay. Go to 143080, if you would. It talks
2 about on this page --

3 MR. EHRICH: What was the page?

4 MR. GARREN: 143080.

5 MR. EHRICH: Got it. Thank you. 03:30PM

6 Q There are two categories there, frequency of
7 spraying and sanitation procedure. With regard to
8 the sanitation procedure, are the growers expected
9 to follow that fairly closely when they've cleaned
10 out a house? 03:31PM

11 MR. EHRICH: Object to the form.

12 A On frequency of spraying, that's again a
13 recommendation.

14 Q My question was, on the sanitation procedure,
15 are they required to follow fairly closely the 03:31PM
16 sanitation procedure?

17 MR. EHRICH: Object to the form.

18 A We have the sanitation procedure in place
19 because of flock health and disease control, and so
20 it depends on the location and the kinds of 03:31PM
21 challenges we're having in the field. So from time
22 to time that could vary depending on what that is.

23 Q Do some of those challenges include microbial
24 pathogens existing?

25 A More to do with probably viruses and those 03:31PM

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1 things that affect poultry.

2 Q On the same page read the very first sentence
3 at the top of the page to the Record, please.

4 A The primary goal in sanitation of a poultry
5 barn which occurs is to lower microbial pathogens to 03:32PM
6 a level that the turkeys' immune system can handle.

7 Q We're through with this document. Let me ask
8 you some questions about Cargill's growing
9 operations. Where does Cargill operate turkey
10 growing grow-out farms in the IRW? 03:32PM

11 A There are farms in the area of Siloam Springs.

12 Q How many farms does Cargill operate today?

13 A In total?

14 Q Yes, in the IRW.

15 MR. EHRICH: Object to the form of the 03:33PM
16 question.

17 Q Do you understand the question?

18 A The question is operate or own?

19 Q Those company-owned farms that Cargill
20 operates. 03:33PM

21 A There are six.

22 Q All right, and what kind of farms are they?

23 A They are turkey breeder laying operations.

24 Q Explain to the court what that means.

25 A Those are farms where we produce fertile 03:33PM

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1 hatching eggs.

2 Q And what happens to the eggs?

3 A They go into one of our hatcheries.

4 Q And then after the hatchery, where do they go?

5 A Those eggs are hatched and the poults from 03:33PM
6 those hatcheries are either -- they either go on to
7 contract facilities with Cargill or in some cases we
8 sell those poults to other companies.

9 Q We talked about liquid and dry waste. Do the
10 turkey breeder operations create dry waste? 03:34PM

11 MR. EHRICH: Object to the form.

12 A The poultry litter produced in turkey breeder
13 houses is considered dry poultry litter.

14 Q All right. What is the time period that
15 Cargill has had these farms in operation? 03:34PM

16 A I don't know the exact time frame but they've
17 been there for some period of time. I don't know
18 the exact dates.

19 Q Who would be the person that would know that?

20 A Probably somebody in the location, in the 03:34PM
21 location there, somebody that had been there a long
22 time. I don't know the exact dates they were built.

23 Q Cargill, the corporation, through its 30(b)(6)
24 witness should be able to tell us; would you agree;
25 somebody can find that information out? 03:35PM

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1 A Yes, we probably can.

2 Q I saw a reference to nests being removed
3 weekly from a breeder house. Does that occur?

4 MR. EHRICH: Object to the form.

5 A Nests being removed? 03:35PM

6 Q Are there nests?

7 A I don't know if I understand that question.

8 Q Are there nests in a breeder house?

9 A Yes.

10 Q And what do they consist of? 03:35PM

11 A They're -- for the most part they're small
12 wooden boxes that the birds lay eggs in. Some have
13 automatic nests where there's a belt that runs those
14 eggs to the end of the house.

15 Q And are those nests cleaned, removed at any 03:35PM
16 time?

17 A It -- the material in the nest is sometimes
18 changed.

19 Q What material is that?

20 A Wood shavings. 03:35PM

21 Q All right, and what happens to those wood
22 shavings? That's kind of like litter, bedding
23 litter, is it not, bedding material, the wood
24 shavings?

25 A That material can be reused on the floor. 03:36PM

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1 Q All right, and the floor of the same house?

2 A Floor of the same house.

3 Q And what happens to that bedding material

4 then; does that become the dry litter that you

5 referred to earlier that then is removed on some

03:36PM

6 regular basis?

7 A It could.

8 Q How regular is it removed?

9 A I don't know the exact -- I don't know exactly

10 how often they're removed. Somebody at the location

03:36PM

11 could tell you that.

12 Q And who would that person be?

13 A Somebody directly involved in our breeder

14 operation there.

15 Q Do you know the name?

03:36PM

16 A Now that person is Gerald Duncan.

17 Q Okay. Do you know what the history has been

18 with the use of the poultry, used poultry litter

19 that's removed from Cargill's company farms when

20 it's removed?

03:36PM

21 A I know some of the history of litter from

22 those farms.

23 Q Tell me what you mean by some.

24 A Are you asking about a certain time frame?

25 Q That was my -- I thought the intent of my

03:37PM

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1 question was what's happened to it over time.

2 A Over a number of years some of that litter has
3 been land applied in that area.

4 Q Is it --

5 A Some has -- 03:37PM

6 Q Go ahead.

7 A Some has been sold out of the watershed, and
8 past that I don't know if there's more history than
9 that.

10 Q What time frame do you know of the history of 03:37PM
11 the use of the used poultry litter; what time frame
12 are you talking about?

13 A I only know of the operation since I took over
14 the ag operations function in December of '03.

15 Q So from 12 of '03 some has been land applied 03:38PM
16 and some has been sold, the poultry litter used?

17 A That's correct.

18 Q Is it land applied on land that's owned by
19 Cargill?

20 A It has been in the past, yes. 03:38PM

21 Q And the -- you said some had been? I'm sorry.
22 Some of it had been land applied on land owned by
23 Cargill?

24 A Yes.

25 Q Since 12 of '03? 03:38PM

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1 A Yes.

2 Q Do you know what percentage has been?

3 A I don't know that exact number.

4 Q If it hasn't been land applied, then would it

5 have been in the other category as being sold?

03:38PM

6 A Yes. There's been litter sold from those
7 farms since December of 2003.

8 Q And to whom is that litter sold?

9 A I don't know the exact person. I know some of

10 that was sold by Cargill; some of it was sold

03:39PM

11 through BMPs.

12 Q BMPs, Inc., which is the company that had a
13 grant to do hauling of poultry litter?

14 A Litter transportation subsidiary, yeah.

15 Q When some of it was sold, do you know whether

03:39PM

16 or not it was still land applied in the IRW?

17 A I only know over the past few years the litter

18 that was sold from those operations was transported

19 out of the IRW.

20 Q And how do you know that?

03:39PM

21 A From my conversations with Tim Alsup.

22 Q Mr. Alsup is in charge of a program to do just

23 that, arrange the hauling of used poultry litter; is

24 that correct?

25 A He's our environmental coordinator in that

03:40PM

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1 area.

2 Q Okay, and is there a name of that project that
3 he's in charge of to haul this litter out of the
4 IRW?

5 A There currently isn't a name for that. 03:40PM

6 Q Can you tell me what Precision Ag is?

7 A Yes. For a period of time myself and Tim
8 Alsup were working with some members of Cargill Crop
9 Nutrition. We were attempting to build up a
10 business to haul and land apply poultry litter in 03:40PM
11 southeast Kansas, and we used that term, Precision
12 Ag.

13 Q I'll have some exhibits we can look at on
14 that, but I just wanted to clarify that part.

15 A Okay. 03:40PM

16 Q When Cargill refers to its breeder farms, are
17 they referred to by name or number?

18 A Our farms in general?

19 Q The six breeder farms that you said, are they
20 identified by number or name? 03:41PM

21 A They have numbers.

22 Q All right, and the people that operate those
23 farms, are they employees of Cargill?

24 A Yes.

25 Q Where is the feed mill located that is 03:41PM

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1 supplying the IRW growers?

2 A That feed mill is in Springdale, Arkansas.

3 Q Is there only one?

4 A There's only one feed mill that supplies feed
5 to the growers in the IRW. 03:41PM

6 Q Does the Springdale feed mill supply growers
7 other than the IRW growers?

8 A Yes.

9 Q And where are they located?

10 A Those growers are located within probably a 03:41PM
11 hundred mile radius of Springdale, Arkansas.

12 Q In all directions?

13 A That's kind of a radius. I think that's
14 probably fairly accurate.

15 Q Is there a processing plant located in the 03:42PM
16 IRW?

17 A I think there is.

18 Q Do you know where it is?

19 A It would be probably the Simmons plant in
20 Siloam Springs. 03:42PM

21 Q So Cargill uses the Simmons processing plant
22 to process its turkeys?

23 A No.

24 Q Okay. Explain what you mean by the Simmons
25 plant. 03:42PM

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1 A Your question was, is there a processing plant
2 in the IRW.

3 Q Okay. Is there a processing plant owned by
4 Cargill in the IRW?

5 A I'm not positive if our Springdale processing 03:43PM
6 plant is technically in the IRW.

7 Q But you have a processing plant that Cargill
8 uses that's located in Springdale?

9 A Yes.

10 Q Is there any other processing plants that the 03:43PM
11 birds from the IRW would go to besides Springdale?

12 A No.

13 Q Is there a hatchery that is located within the
14 IRW that Cargill owns?

15 A We have a hatchery in Gentry, Arkansas. 03:43PM

16 Q Is that the closest --

17 A I think that falls within the bounds of the
18 IRW. I'm not positive.

19 Q Certainly it's close to the north border. Is
20 there any other hatchery that might be used besides 03:43PM
21 Gentry that could supply the IRW?

22 A Not in our business.

23 Q Okay. As far as you know, is the feed that's
24 produced in the -- the feed that is delivered for
25 use in the IRW produced outside of the IRW? 03:44PM

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1 A The feed for the growers in the IRW is
2 produced at our feed mill in Springdale, Arkansas.

3 Q The actual growing of the corn or that grain
4 that's the primary component in the feed, is it
5 grown outside the IRW? 03:44PM

6 A I think for the most part that's grown outside
7 of the IRW.

8 MR. GARREN: Let's take a break since we're
9 out of time on the tape.

10 VIDEOGRAPHER: We are now off the Record. 03:44PM
11 The time is 3:43 p.m.

12 (Following a short recess at 3:44 p.m.,
13 proceedings continued on the Record at 3:59 p.m.)

14 VIDEOGRAPHER: We are now back on the
15 Record. The time is 3:59 p.m. 03:59PM

16 Q Mr. Maupin, I've handed you a stack of
17 documents that begin with an E-mail involving Mr.
18 Alsup and Archie Schaffer, which shows you also
19 copied on August 29th of 2006, and that's Exhibit 5
20 with Bates number 170610. Do you recognize or 04:00PM
21 remember that document being copied to you?

22 A Not in particular, but it's possible I saw it.

23 Q Are you familiar with the number of house --
24 with regard to the Illinois River watershed, are you
25 familiar with the number of growers and/or farms 04:00PM

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1 that Cargill operates within that watershed?

2 A I have a rough idea of how many that is.

3 Q Who has the responsibility of keeping track of
4 that?

5 A That's more of a location specific thing. 04:00PM
6 Either Jason Witt, our ag manager, or certainly Tim
7 Alsup is somebody that may know those numbers.

8 Q Okay. Would Mr. Alsup be more informed about
9 that than you?

10 A Depends on the specific detail you want to 04:01PM
11 ask.

12 Q Okay. There is an attachment to this document
13 that is Bates number 170611, which is the next page.
14 Do you see that?

15 A Okay. 04:01PM

16 Q Do you know who prepared that document?

17 A I do not.

18 Q Have you seen that document before?

19 A I think I have.

20 Q Do you recall in what context you would have 04:01PM
21 been looking at that document?

22 A Maybe it was just an E-mail.

23 Q Do you know what the purpose of the document
24 was in the fact that it was created?

25 A It was created to get an idea of the number of 04:02PM

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1 houses, poultry houses in each of those watersheds.

2 Q And by various growers besides Cargill, too?

3 A Yeah, appears to be.

4 Q Do you know who would have supplied the

5 information from the other integrators that are

04:02PM

6 listed here?

7 A Not from the other integrators.

8 Q It appears, though, and only because this is

9 produced by Cargill, that maybe Cargill created this

10 spreadsheet?

04:02PM

11 A I don't think that to be the case.

12 Q Do you think someone else may have?

13 A I don't think we accumulated that data.

14 Q Go to the next page. There's another string

15 of E-mails dated the same date but at a different

04:03PM

16 time, later in the day, at 159814. Do you see that?

17 A Yes.

18 Q And it also involves Mr. Schaffer, Mr. Alsup

19 with copies to you talking about the grow-out

20 production houses and breeder production houses in

04:03PM

21 the IRW. Who would have gathered that information

22 to report it in this E-mail?

23 A For Cargill?

24 Q Yes, sir.

25 A Tim Alsup.

04:03PM

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1 Q Okay, and do you know who this refers to? It
2 says according to Sheri, the new numbers should be
3 97 Cargill houses. Do you know who the Sheri is
4 referring to here?

5 A I don't know for sure. The only Sheri I know 04:03PM
6 in that area is Sheri Herron.

7 Q And she's the person, the principal behind
8 BMPs, Inc., the waste hauling organization?

9 A Yes.

10 Q Let's skip over then to a different page. We 04:04PM
11 have a continuation of the same E-mail string I
12 believe is what these -- but there's a chart or
13 spreadsheet at 95366. Do you see that?

14 A Yes.

15 Q And it's dated at the top 9-6-05 with a title 04:04PM
16 Illinois watershed; do you see that?

17 A Yes.

18 Q Who was responsible for preparing that
19 document?

20 A My recollection is that Tim Alsup prepared 04:04PM
21 this document.

22 Q Did he share it with you?

23 A I think at the time I did see this.

24 Q Did you or he confer over its contents to
25 ensure of its correctness or its completeness? 04:05PM

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1 A I don't recall.

2 Q Do you know whether or not Mr. Alsup
3 represented to you that it was complete and accurate
4 at the time that he prepared it on or about
5 September 6th of '05? 04:05PM

6 A If he presented me with this data, I would
7 have assumed he was accurate in his collection of
8 it.

9 Q Do you know why he prepared this spreadsheet
10 at that time? 04:05PM

11 A I don't know.

12 Q Was it pursuant to any instructions you gave
13 him?

14 A It could have been. It could have been at the
15 instruction of our attorneys. I don't know. 04:05PM

16 Q The next page, which is 367, there's a black
17 box. Do you know why that is a black box?

18 A No, I don't.

19 Q You don't know what is behind it or what
20 should be behind it? 04:06PM

21 A No, I don't.

22 Q The next page, 368, the same thing, do you
23 know what that or 369 contains?

24 MR. EHRICH: Well --

25 A I don't know. 04:06PM

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1 MR. EHRICH: Object to the extent it calls
2 for him to disclose privileged or attorney work
3 product information.

4 MR. GARREN: Assuming that it does.

5 MR. EHRICH: I suppose you can go look at 04:06PM
6 your privilege log, Counsel.

7 MR. GARREN: And if it isn't on there, it
8 would be because it's non-responsive, would it not?

9 MR. EHRICH: It may be as well that the
10 information relates to facilities outside the 04:07PM
11 Illinois River watershed maybe.

12 Q Look at Page 95370 then. Do you see a
13 document entitled Springdale complex with a date
14 4-23-04?

15 A Yes. 04:07PM

16 Q And do you see where this document lists the
17 number of farms, brood houses and grow-out houses
18 for the Illinois River watershed?

19 A Yes.

20 Q Do you know who would have been responsible 04:07PM
21 for preparing this document?

22 A Tim Alsup.

23 Q And do you know who would have requested the
24 preparation of this document?

25 A Either I did or one of our attorneys. 04:07PM

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1 Q Okay. Do you know who prepared the number
2 that is contained in the column, tons of litter per
3 year?

4 A Do I know what that designates; is that the
5 question?

04:08PM

6 Q Well, do you know how that would have been
7 calculated, I guess a better question?

8 A I don't know exactly how he calculated that.

9 Q You see the next row below that says watershed
10 total?

04:08PM

11 A Yes.

12 Q Does it appear to you that that total includes
13 other watersheds besides the Illinois River based
14 upon what we see on this document?

15 MR. EHRICH: Object to the form of the
16 question.

04:08PM

17 A It appears to be a larger number. I don't
18 recall what those totals represent.

19 Q The next page appears to be an E-mail message.
20 Do you see that? It's 121758.

04:08PM

21 A There's no body to it.

22 Q Correct. It has -- looks like a header for an
23 E-mail message?

24 A Yes.

25 Q And it's got your name on it. Do you have any

04:09PM

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1 indication why that is?

2 A No. I don't recall what that's for.

3 Q Do you see the subject farms, sorted by
4 watershed dot XLS. Do you know what that means?

5 A No, unless he was taking the farms in that 04:09PM
6 complex and sorting them by the watershed that they
7 were in.

8 Q Look at the next page then and see if that
9 helps. Does this appear to be another spreadsheet
10 that might be a dot XLS file? 04:09PM

11 A It could be.

12 Q And you see the date of it is 12-14-04?

13 A Yes.

14 Q Do you know who would have prepared this
15 spreadsheet? 04:09PM

16 A I would guess that that would be Tim Alsup.

17 Q Would you agree with me that based upon the
18 two spreadsheets that we see in here that are
19 located at Page 95366 dated September '05 and Page
20 121759, December of '04, that Cargill had at that 04:10PM
21 time known the number of birds it was producing on
22 an annual basis in the watershed, Illinois River
23 watershed?

24 A These charts show a number of heads placed in
25 the Illinois River watershed at both of those time 04:10PM

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1 frames.

2 Q And if you look at those charts, one shows
3 that there were a different number of houses
4 existing at the different times that they were
5 prepared; do you see that?

04:10PM

6 A Yes.

7 Q So somebody was tracking the number of heads
8 placed within that watershed at those time frames;
9 would you agree?

10 A Yes.

04:10PM

11 Q And that person most likely then in your
12 opinion would be a Mr. Tim Alsup?

13 A Yes.

14 Q Look at the next to the last page, which is
15 121835, and see if you recognize the E-mail message
16 that was mailed from Alsup to Maupin on September
17 6th, 2005.

04:11PM

18 A 121835?

19 Q Yes, sir.

20 A Okay.

04:11PM

21 Q It appears to have that same subject line that
22 we saw earlier without a body of an E-mail, does it
23 not, farms sorted by watershed dot XLS?

24 A Yes.

25 Q And then it says an attachment, farms sorted

04:11PM

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1 by watershed dot XLS. That appear to refer to what
2 would be an Excel spreadsheet; do you think?

3 A That's a typical set of letters for an Excel
4 spreadsheet. I would assume that's what that is.

5 Q And were you asked to produce or compile 04:12PM
6 documents in your possession for requests by the
7 State of Oklahoma in this case?

8 A Was I requested?

9 Q Yes, sir.

10 A I don't remember -- I don't remember who 04:12PM
11 requested the information, but certainly I could
12 have asked Tim Alsup to compile it.

13 Q Let me ask my question again. For purposes of
14 this litigation, were you asked to look at your
15 records and pull documents that may have been 04:12PM
16 responsive to requests by the State of Oklahoma?

17 A I have been asked several times by our
18 attorneys to have that data accumulated.

19 Q And tell me how you did that, if you did.

20 MR. EHRICH: Well, now, object to that. I 04:13PM
21 object to that. I object to that because it risks
22 disclosure of attorney-client privilege.

23 MR. GARREN: I didn't ask him what the
24 communications were. I asked him what he did and I
25 asked him how he compiled documents in order to 04:13PM

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1 produce them.

2 Q Do you know what you did to compile documents
3 after you were requested?

4 A I contacted Tim Alsup in those cases and he
5 compiled the data. 04:13PM

6 Q Do you have yourself a computer at your desk
7 or at your access for your use?

8 A Yes.

9 Q And did you do anything to compile data off of
10 that computer in response to requests by the State 04:13PM
11 of Oklahoma?

12 A I don't remember compiling the data myself. I
13 think that Tim Alsup compiled that data.

14 Q From your own computer?

15 A No. He would have sent me the data. 04:13PM

16 MR. EHRICH: Mr. Maupin, listen to the
17 question. He's asking in this litigation did
18 lawyers, your lawyers, company lawyers come and
19 collect the information from your files, from your
20 computer. That's what he's asking. 04:14PM

21 A I misunderstood the question. Have --

22 MR. EHRICH: No. Do you want him to ask
23 him again so you have a good Record?

24 Q Now that you understand that we're looking for
25 what you did to compile information and data from 04:14PM

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1 your records, I'm trying to find out did you
2 personally do that?

3 MR. EHRICH: For this litigation.

4 Q For the State of Oklahoma's request in this
5 litigation?

04:14PM

6 A I think that's the question I answered. I
7 didn't compile the data. I asked for the data to be
8 compiled.

9 Q Okay. Who reviewed your E-mails that would
10 have been responsive, such as showing where you have
11 copies of these E-mails in hard copy; who would have
12 done that that were on your computer?

04:14PM

13 A I don't know exactly who did that.

14 Q Did you yourself pull any E-mails off of your
15 computer at the request of attorneys in this case?

04:15PM

16 A No.

17 Q Did anyone for you pull E-mails off of your
18 computer?

19 A Yes.

20 Q For this case?

04:15PM

21 A Yes.

22 Q And who would that have been?

23 A My understanding, it was probably somebody in
24 Cargill IT at the request of the attorneys.

25 Q Okay. Did anybody come to your computer and

04:15PM

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1 search the hard drive on your computer for either
2 documents or data or E-mails and pull those off?

3 A I think they did it that way, but I think they
4 also do it through the system.

5 Q Okay. Do you know that they did it from your 04:15PM
6 hard drive also if materials were stored on your
7 hard drive?

8 A I don't know the answer to that. They've done
9 it several times. I don't know the answer.

10 Q Other than electronically stored information, 04:16PM
11 do you have hard copy files in your office?

12 A Yes.

13 Q And were those hard copy files collected and
14 gathered and produced to requests made by the State
15 of Oklahoma in this litigation? 04:16PM

16 A Yes.

17 Q Do you recall having either of the
18 spreadsheets that we looked at in this Exhibit No. 5
19 in hard copy format found at Page 95366 or 121759?

20 A I don't recall if I had those hard copy or 04:16PM
21 electronic version. Probably one or the other, but
22 I don't know which one.

23 Q Let's go back then to Page 121835 of the same
24 Exhibit No. 5. Did you and Mr. Alsup have a
25 conversation that led to this E-mail being sent to 04:17PM

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1 you in advance of this E-mail?

2 A I don't recall whether it was a conversation
3 or an E-mail that led to this E-mail.

4 Q Do you know what was the purpose of him
5 preparing this information and sending it to you? 04:17PM

6 A I think he was gathering this information for
7 me as a request by our attorneys.

8 Q Look at the very last page of this document,
9 138756. Do you see that?

10 A Yes. 04:17PM

11 Q That appears to be an E-mail on July 30th,
12 2004 from you to a person named Ernest Rightsell;
13 correct?

14 A Yes.

15 Q Do you know who -- can you tell me who 04:17PM
16 Rightsell is?

17 A He is a flock supervisor in our Virginia
18 complex.

19 Q This document says that you and -- you wrote
20 this document, correct, since it came from you? 04:18PM

21 A I don't recall but it's from me. I probably
22 did.

23 Q It says, I quote, I use 7.25 tons per thousand
24 heads started for turkey hens. This is referring to
25 litter production. My question to you is, how did 04:18PM

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1 you come about using that number; is that just based
2 on experience?

3 A That's -- that was a number that I arrived
4 at -- that I had learned from nutrient management
5 training. It was a number that was fairly standard 04:18PM
6 to I believe NRCS or certainly Virginia Department
7 of Conservation and Recreation. In years past it
8 was a number I knew.

9 Q And the number uses, that's for hens, and the
10 number used from nine tons per thousand heads 04:19PM
11 started Toms, would that be from the same source you
12 just described?

13 A Same source. Those are rough estimates when
14 you are calculating poultry litter.

15 Q And did I hear you say that these are commonly 04:19PM
16 used or known from those sources?

17 A I think they're commonly used or known by
18 universities or state agencies. Beyond that, I
19 don't know.

20 Q Do you know a Jeffrey Johnson? 04:19PM

21 A Jeffrey Johnson -- you'll probably have to be
22 more specific.

23 Q My belief is he's a Cargill employee.

24 A He is a Cargill -- there is a Jeffrey Johnson
25 that's a Cargill attorney. 04:20PM

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1 Q Okay. Where does he office?

2 A Minneapolis.

3 Q Do you have reasons to speak to him or
4 communicate with him in your normal day-to-day
5 activities?

04:20PM

6 A No. He's an attorney for another business
7 unit. At one time he was in our business unit.

8 Q Okay. What business unit is he in now, if you
9 know?

10 A I don't recall, and I think it recently
11 changed. I'm not sure. He's in Minneapolis.

04:20PM

12 Q What business unit was he in that you said you
13 were in; what would you refer to that business unit
14 by name?

15 A He was our Cargill Turkey Products attorney
16 some years ago. We've had several since.

04:20PM

17 Q And you mentioned earlier Kimberly Thorstad?

18 A Thorstad.

19 Q She's an attorney also?

20 A Yes.

04:21PM

21 Q Is she an attorney in -- what business unit
22 does she operate from?

23 A She -- I'm not sure of her exact tag to a
24 business unit. She's an environmental attorney with
25 Cargill in Minneapolis, several business units.

04:21PM

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1 Q And do you have -- how long have you known
2 her?

3 A Since I came to Cargill. Probably maybe 2002.

4 Q Okay. Do you have a reason to deal with her
5 directly or on an ongoing basis? 04:21PM

6 MR. EHRICH: Object. I'm going to object
7 to this question. It asks the witness to disclose
8 privileged information, and I'm going to instruct
9 him not to answer.

10 MR. GARREN: I've not asked for any 04:22PM
11 privileged information. I'm asking him on a daily
12 basis.

13 Q Do you have -- in your day-to-day activities,
14 do you deal with her?

15 A I don't deal with Kim Thorstad on a daily 04:22PM
16 basis.

17 Q Mark Quail, he's another attorney with
18 Cargill; is that correct?

19 A Yes.

20 Q Do you know him? 04:22PM

21 A Yes.

22 Q And on your day-to-day visits, do you have a
23 reason to deal with him on day-to-day business
24 activities?

25 A Not on a day-to-day basis. 04:22PM

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1 Q Is he in a particular business unit, if you
2 know?

3 A I don't know the particular business unit he's
4 in. We have worked with him and still work with him
5 some now. 04:22PM

6 Q If I wanted to ascertain the volume of bird
7 production over a period of years, would you know
8 that information or would you have to go to someone
9 else to obtain it?

10 A Somebody else would have to tell me that. 04:22PM

11 Q Who would you ask in order to get that
12 information that would predate 2002?

13 A I think you're probably asking for something
14 that would come from our accounting records.

15 Q Okay, and who would you ask to obtain that
16 information? 04:23PM

17 A Those numbers would be location specific.

18 Q And when you say location specific, do you
19 mean by complex or something else?

20 A By complex. 04:23PM

21 Q So the accounting records at Springdale
22 complex would be the likely place to try and
23 ascertain the bird production for Cargill at that
24 complex over a period of years?

25 A I think that's probably correct, yeah. 04:23PM

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1 Q And do you know in what form that material or
2 that information would be in, hard copy,
3 electronically stored, or do you know?

4 A Could be one or both of those.

5 Q Are you familiar with the form that's used by 04:24PM
6 Cargill that's referred to as a presettlement
7 calculation form?

8 A I have seen that form.

9 Q Do you use it in your business activities on a
10 regular basis? 04:24PM

11 A No.

12 Q Is that something that Mr. Alsup would be more
13 likely familiar with and use in his day-to-day
14 operations?

15 A That's something that would be more used by 04:24PM
16 our accounting people.

17 Q Okay. What about the flock performance
18 document report; is that something that you use on a
19 regular basis or refer to?

20 A That's not something that I use on a regular 04:24PM
21 basis.

22 Q Who would likely use that on a regular basis,
23 Mr. Alsup or someone else?

24 A Probably someone in our accounting or location
25 ag manager. 04:24PM

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1 Q So for the Springdale complex, who would that
2 ag manager be at this time?

3 A Jason Witt.

4 Q Okay. A closed flock settlement form that's
5 used by Cargill, is that something that you use on a 04:25PM
6 regular basis?

7 A Can you repeat the term?

8 Q The closed flock settlement form.

9 A That's a form used by accounting.

10 Q Okay, and you don't refer to it or use it in 04:25PM
11 your day-to-day activities?

12 A No. I only see the accumulated data from
13 those type of reports.

14 Q When it's accumulated, what time is it
15 accumulated to? 04:25PM

16 A We usually see a week at a time.

17 Q Are there any other accumulation time frames
18 besides one week that you would look at?

19 A Those same reports have year-to-date numbers.

20 Q And is Cargill in reporting its accounting, is 04:25PM
21 it on a fiscal or calendar year for purposes of a
22 yearly accounting?

23 A Fiscal year.

24 Q What is that fiscal year; do you know?

25 A June 1st to May 31st. 04:26PM

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1 Q Are you familiar with the report used by
2 Cargill that's entitled settlement recap?

3 A I have seen it.

4 Q Is that something that you use in your
5 day-to-day activities or have a reason to refer to 04:26PM
6 it?

7 A No. I see the accumulated settlement numbers
8 for each location.

9 Q Those accumulated numbers, what is the title
10 of the report that you would see? 04:26PM

11 A Weekly ag operating report.

12 Q The accumulated numbers for the closed flock
13 settlement, what would be the name of that report
14 that you said you looked at?

15 A It's the same report. 04:26PM

16 Q So the weekly ag op report would reflect those
17 accumulated numbers?

18 A Yes.

19 Q What is the reason you refer to or look at
20 those numbers in your day-to-day activities? 04:26PM

21 A Those are the performance and cost numbers
22 that flow through our live production system into
23 our plants.

24 Q Is your concern from the cost standpoint of it
25 or the numbers of birds produced, or is it both? 04:27PM

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1 A Both of those things are things we look at.

2 Q If you wanted to determine the accuracy of the
3 total number of birds produced on an annual basis by
4 Cargill, what form or report would you go to to try
5 and find that number? 04:27PM

6 MR. EHRICH: I'm going to object to the
7 form of the question.

8 A Can you restate the question?

9 Q Sure. If you wanted to determine the annual
10 number of birds produced by Cargill, what form or 04:27PM
11 report would you look to to attempt that process?

12 MR. EHRICH: Same objection.

13 A The term produced, I don't know if you mean
14 number of birds processed or placed.

15 Q Number of birds processed. I'll correct my 04:28PM
16 question. If you wanted to know the number of birds
17 processed on an annual basis, what form or what
18 report would you look to to do that?

19 A That number probably could be found on our
20 weekly P and L number for the complex, and it could 04:28PM
21 also probably be found in our monthly accounting
22 settlements, year-end accounting settlement for the
23 whole business.

24 Q All right. Now, if you wanted to find that
25 number for the IRW growers, what would you look to 04:28PM

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1 to get that same annual bird processed number?

2 A For purposes of our business, we don't
3 normally separate those growers out as a separate
4 unit.

5 Q Okay. I understand that, but if you wanted to 04:28PM
6 do that, what would you go to to find that number?

7 A You would have to go back to the individual
8 flock settlements of the growers in the IRW and
9 accumulate those numbers.

10 Q Do you remember the number of the form that 04:29PM
11 you are referring to as a flock settlement; do you
12 know the number I'm talking about in the upper
13 right-hand corner, the TFR number?

14 A No, I don't know the number for that.

15 Q Okay. Does -- for purposes of bird mortality, 04:29PM
16 does Cargill give specific instructions to its
17 growers as to how to handle bird mortality?

18 MR. EHRICH: Objection to the form of the
19 question.

20 Q Let me rephrase it. Does Cargill give 04:29PM
21 instructions to its contract growers on what to do
22 to dispose of the carcasses from the growing
23 operations?

24 A We provide -- we provided the growers with
25 information on several different ways to handle 04:30PM

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1 flock mortality, and the growers choose which method
2 works best for them.

3 Q Is there a preferred method by Cargill that
4 they use to dispose of the carcass?

5 A Not in particular. There's not a preferred 04:30PM
6 method.

7 Q Is there a method that they are instructed not
8 to use in disposing of a bird carcass?

9 MR. EHRICH: Object to the form of the
10 question. 04:30PM

11 A We would rather growers not bury dead birds.

12 Q And do you know why that is?

13 A Composting and incinerations are the preferred
14 method.

15 Q Okay, and do you know why it is that you 04:30PM
16 prefer they not be buried?

17 A In most states that's a violation of state
18 law.

19 Q And is that the law that would be in Arkansas
20 and Oklahoma regarding those growers in the IRW; do 04:31PM
21 you know?

22 A It's my recollection that the new Arkansas
23 regulation prohibits burial of dead birds.

24 Q And do you know what Oklahoma requires?

25 A I don't know. 04:31PM

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1 Q I'll now hand you what's been marked as
2 Exhibit 6 and ask you to look at that document.

3 A You want me to take time to read the whole
4 thing?

5 Q Are you familiar with this document? 04:32PM

6 A I remember the document. I haven't seen it in
7 a long time.

8 Q It's a document that appears to be authored by
9 you. Is that your recollection as being correct?

10 A Yes. 04:32PM

11 Q And it appears to be a date of April 25th,
12 2000 with a reference to Rocco, Inc., so that would
13 be before the Cargill acquisition; is that correct?

14 A This would have -- if it was prepared in 2000,
15 it would have been for the Rocco operations in 04:32PM
16 Virginia.

17 Q When Cargill took over Rocco, were all the
18 documents from Rocco essentially retained that were
19 needed in its operations?

20 A I don't know the answer to that. 04:33PM

21 Q Were they or were essential documents moved
22 from any location to another location at the time of
23 that acquisition, meaning Rocco documents?

24 A I don't know. I know that there were
25 documents retained for a number of years that were 04:33PM

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1 stored at the -- what we call the old feed mill
2 office in Virginia because I saw them there but past
3 that, I don't know what the retention of those
4 documents was.

5 Q Were documents essential to the operation of 04:33PM
6 Cargill -- I'm sorry, documents that were essential
7 to the operation of Rocco at the time of the
8 acquisition then shared with Cargill I assume?

9 MR. EHRICH: Object to the form.

10 A I'm sure -- I wasn't in accounting or any of 04:33PM
11 those type of functions, so I don't know, but I'm
12 sure there probably were accounting documents that
13 were retained.

14 Q I'm sorry. I didn't limit it to accounting.
15 I'm talking about documents you would have knowledge 04:34PM
16 of that were essential to the operation of Rocco.
17 Would those also have been preserved and used by
18 Cargill people as the integration of those companies
19 occurred?

20 MR. EHRICH: Same objection. 04:34PM

21 A I can't speak for the whole operation. I can
22 only speak for myself.

23 Q I guess the reason I'm asking is I'm looking
24 at a document that Cargill produced but it's before
25 the acquisition and it has your name on it and 04:34PM

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1 Rocco, Inc.

2 A Okay.

3 Q It appears some documents have been preserved
4 from that. Would you agree?

5 A This is a document that predates the Cargill 04:34PM
6 acquisition of Rocco, yes.

7 Q Read the first sentence in the second
8 paragraph into the Record, please.

9 A The new poultry litter regulation in Virginia
10 will create many new challenges with regard to 04:34PM
11 nutrient management.

12 Q Okay. If I didn't say it, I meant to say the
13 second paragraph, first sentence. Read that into
14 the Record, please.

15 A Over the next five years there will begin to 04:35PM
16 be excess amounts of litter in areas where high
17 concentrations of poultry are produced.

18 Q What areas were you referring to?

19 A At the time of this document I was working in
20 the area of Virginia and West Virginia. 04:35PM

21 Q So --

22 A That was the scope of my business.

23 Q So is that your answer, that that's the area
24 you were referring to is Virginia and West Virginia?

25 A I don't recall what the purpose of this 04:35PM

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1 document was. I don't recall what I wrote it for.

2 Q Okay.

3 A Or what the scope was.

4 Q It goes on to say there are four cost

5 effective methods to eliminate some of the excess 04:35PM

6 litter in these areas, and then it lists four areas.

7 Do you see that?

8 A Yes.

9 Q Is there one particular -- let me ask it this

10 way: Of those four, is there one that is most 04:35PM

11 effective from a cost standpoint?

12 A I'm not sure if that can be determined by what

13 you're asking me. Those are all different ways to

14 deal with litter.

15 Q Okay, and has Cargill done anything to 04:36PM

16 determine what is the most cost effective way to

17 deal with litter in areas with high concentration?

18 MR. EHRICH: Objection to the form of the
19 question.

20 A No, I don't know that we have as a study. 04:36PM

21 Q Okay. What has Cargill done to try and

22 determine what is the most cost effective way to

23 limit excess amounts of litter in areas of high

24 concentration of poultry?

25 MR. EHRICH: Object to the form of the 04:36PM

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1 question.

2 A We have explored each of these four methods
3 that are described in that sentence.

4 Q And then am I to conclude that Cargill has not
5 determined that one is more cost effective than 04:37PM
6 another? I'm not understanding.

7 A Those are four completely different things,
8 and I don't know that I know which one is most cost
9 effective of those items.

10 Q Okay, and your testimony then is that Cargill 04:37PM
11 also does not know which is the most cost effective
12 method of limiting excess amounts of litter in areas
13 of high concentration of poultry?

14 MR. EHRICH: Object to the form. Counsel,
15 you're taking a document that is written years 04:37PM
16 before and putting words in his mouth as to Cargill.
17 You've got no foundation.

18 MR. GARREN: I'm asking as to Cargill. I'm
19 not asking as to --

20 MR. EHRICH: Are we referring to this 04:37PM
21 exhibit anymore then, Exhibit No. 6?

22 MR. GARREN: I can refer to the statement
23 that's made there because it refers to things in the
24 future, and I'm asking --

25 MR. EHRICH: But that was a statement made 04:37PM

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1 during the time that Cargill had not yet acquired
2 Rocco.

3 MR. GARREN: If you want to make a speaking
4 objection, make it outside. Okay? You've objected
5 to the form, and that's all you are required to do 04:38PM
6 and that's all you are allowed to do. Okay?

7 Q Now, Mr. Maupin, do you know whether or not
8 Cargill has done anything to determine what is the
9 most cost effective way to limit excess amounts of
10 litter in areas of high concentration of poultry? 04:38PM

11 MR. EHRICH: Same objection.

12 A I thought I answered that question.

13 Q Well, apparently there's some confusion about
14 it, so I'm going to ask you to rephrase your answer.
15 I'm not referring to -- 04:38PM

16 A At Cargill we have explored each of these four
17 methods described in this letter from the Rocco time
18 period. I don't know which one of those is most
19 cost effective.

20 Q Okay. My question, though, is has Cargill 04:38PM
21 made a determination what is the most cost effective
22 way to limit excess amounts of litter in areas of
23 high concentration of poultry?

24 MR. EHRICH: Counsel, you've repeatedly
25 asked and he's answered this question. 04:38PM

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1 A I don't think we have.

2 Q Okay. Since you say you don't think we have,
3 is there somebody who would know better than you
4 whether that has been done?

5 A You asked the question for Cargill as a whole? 04:39PM

6 Q Yes, sir.

7 A And I don't have knowledge of all aspects of
8 Cargill.

9 Q Well, I'm asking for those areas dealing with
10 high concentrations of poultry and excess litter. 04:39PM
11 So isn't that in your area of expertise?

12 A And I'd answer the question the same way. I
13 don't have knowledge of all the things Cargill works
14 on around the world.

15 Q I don't -- okay. I'm not asking around the 04:39PM
16 world. I'm asking in the United States. Now --

17 A You asked poultry.

18 Q And Cargill operates around the world with
19 poultry; correct?

20 A That's correct. 04:39PM

21 Q In fact, it started in England before it was
22 in Virginia, didn't it; do you know that?

23 A There was a Cargill operation in England
24 before Virginia was purchased.

25 Q Were any of the -- let me ask you this then: 04:40PM

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1 Do you know whether or not any of the operational
2 methods employed in England with regard to poultry
3 litter had been utilized in the United States?

4 MR. EHRICH: Objection to the form of the
5 question. Counsel, you know that there are orders 04:40PM
6 out that limit the scope of your inquiry.

7 MR. GARREN: He kind of opened the door to
8 that and that's why I'm asking.

9 MR. EHRICH: No, he didn't open the door to
10 that. You're the one that suggested the tie-in in 04:40PM
11 England. There are orders out there that I'd ask
12 you to comply with.

13 Q Let me ask you this, sir: Do you know whether
14 or not there are any processes that deal with the
15 poultry litter that is generated by Cargill birds 04:40PM
16 that are employed from its use in other areas than
17 the United States?

18 MR. EHRICH: Same objection.

19 A I don't specifically know how the Cargill
20 poultry litter is handled in other areas of the 04:40PM
21 world.

22 Q Is there someone in Cargill who would best
23 know that besides you?

24 MR. EHRICH: I'm making the same objection,
25 Counsel. You know that there are orders that limit 04:41PM

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1 the scope.

2 MR. GARREN: You said the same objection.
3 You don't need to reverbitalize it. I understand it.

4 MR. EHRICH: Well, you know, maybe we need
5 to get the magistrate judge on the call. 04:41PM

6 MR. GARREN: Call him. I'd be happy to.
7 Call him.

8 MR. EHRICH: Counsel, you're beyond the
9 scope of the permitted inquiry.

10 MR. GARREN: And I understand. Are you 04:41PM
11 instructing him not to answer?

12 MR. EHRICH: No, because Judge Joyner has
13 also said that that's not something he wants in this
14 case. He's relying on us to comply with his orders.

15 Q Do you know anybody who would know an answer 04:41PM
16 to that question?

17 A It would need to be somebody in Cargill that
18 has greater scope of business than myself.

19 Q And you don't know who that is by name?

20 A I don't know specifically who that would be. 04:41PM

21 Q Back to Exhibit 6, can you tell me why you
22 wrote this document?

23 A I don't recall.

24 Q Do you know whether this document was
25 disseminated or distributed to anybody? 04:42PM

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1 A I don't know why I wrote it. I remember
2 writing it, but I don't remember the purpose.

3 Q Do you know whether or not this document was
4 presented to Cargill after the acquisition to use or
5 rely on in any way? 04:42PM

6 A Not to my knowledge.

7 Q Is it your testimony that Cargill has explored
8 these same four alternatives for eliminating excess
9 litter?

10 MR. EHRICH: Object to the form, and asked 04:43PM
11 and answered.

12 Q Can you answer the question?

13 A We've already -- we have explored these four
14 alternatives.

15 Q How did Cargill know to explore these four 04:43PM
16 alternatives then?

17 A We learned of these things from university
18 research, state agencies.

19 Q So published literature would be a source?

20 A Vendors that sell things in these areas. 04:43PM

21 Q And did you share this information with
22 Cargill once you became a Cargill employee?

23 A Yes.

24 Q On the second page, the first full paragraph,
25 there is a sentence there that says, we need -- we 04:43PM

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1 needed a solution that would have a marketable end
2 product but also be profitable; do you see that?

3 A Yes.

4 Q The key element that kept coming back to us in
5 our discussion was that in order to make money in
6 the alternative markets for litter, the product had
7 to be value added. Explain to me what that means.

04:44PM

8 A During the time period of this article I spent
9 a lot of time looking at alternative uses for
10 poultry litter, and the driving force behind that
11 was to try to create a business for Rocco that was
12 profitable and also use poultry litter, and so --

04:44PM

13 Q Okay, and -- go ahead. I'm sorry.

14 A So that was the reason for looking for
15 alternative uses for litter.

04:44PM

16 Q Okay. My question to you is, what is meant by
17 the product had to be value added; what are you
18 meaning there?

19 A Well, this plays into what we were in the
20 process of doing with Harmony, and we were trying to
21 take poultry litter and granulate that poultry
22 litter, value added, make it into a higher value
23 product to sell to golf courses, nurseries, those
24 kinds of things.

04:45PM

25 Q When that was done in Harmony, was there

04:45PM

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1 additives to the litter in order to add the value to
2 it?

3 A Yes. It was run through a granulation
4 fertilizer process that added other nutrients.

5 Q Was the balance of those nutrients changed 04:45PM
6 from what it was naturally occurring in poultry
7 litter?

8 A In some cases it was.

9 Q And was that not sufficient then, sufficient
10 value added to be profitable is the reason Harmony 04:45PM
11 ended its existence?

12 A They were never able to establish a big enough
13 market to cover the overhead of the plant.

14 Q Let me hand you what's been marked as Exhibit
15 10, if you would, please. 04:46PM

16 A Are we finished with these?

17 Q Yes, we are. Do you need to go off the Record
18 and take a break?

19 A No. I'm okay.

20 Q Exhibit 10 appears to be an E-mail message 04:46PM
21 December 10, 2003 from a person named Devin Helming
22 to you. Who is Devin Helming?

23 A At the time of this E-mail Devin Helming
24 worked for Cargill Crop Nutrition in Minneapolis.

25 Q I notice behind his name is a slash, forward 04:46PM

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1 slash MTKB. Do you know what that stands for?

2 A I believe it to be something to do with the
3 Minneapolis server for our business.

4 Q Okay, and the forward slash SPRI, do you know
5 what that means behind your name? 04:47PM

6 A That's Springdale.

7 Q Is that a different server?

8 A The employees in our business worked off of
9 the Springdale server when our office was in
10 Springdale. 04:47PM

11 Q Okay, and do those -- today do you in Wichita
12 work off of a separate server in Wichita for the
13 Cargill Turkey Production, LLC, or work off one
14 that's --

15 A It's a Wichita server. 04:47PM

16 Q And is it tied to the same system that's
17 operated in Minneapolis or are they separate?

18 A You're asking a technical computer question.
19 It's beyond the scope of what I know.

20 MR. EHRICH: Just answer the question. 04:47PM

21 A We are on the same systems. I'm sure there
22 are different servers.

23 Q Okay. So it's in a connected system for lay
24 purposes?

25 A We have internal E-mail. Is that the 04:48PM

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1 question?

2 Q Yeah, if that's the way you can answer it.

3 A Okay.

4 Q This document talks about assumptions or based

5 on information we learned from the program in Iowa. 04:48PM

6 Can you tell me what that is referring to?

7 A Cargill Crop Nutrition during this time frame

8 -- I'm not sure if it still exists today, maybe it

9 does -- had what they call a Precision Ag model that

10 worked with commercial egg facilities in Iowa with a 04:48PM

11 land application model, and that was part of our

12 discussion as a part of our work with the Precision

13 Ag model for southeast Kansas.

14 Q Okay. So that's where the name -- they shared

15 a similar name of Precision Ag, one was in Iowa? 04:48PM

16 A Their business, the name was -- Precision Ag I

17 believe was in the business or that's what they

18 referred to it as, and that kind of became the tag

19 for what we did as well, separate businesses.

20 Q Is it a business of Cargill or is it a 04:49PM

21 third-party business that you are referring to,

22 Precision Ag?

23 A The business at that time was connected to

24 Cargill Crop Nutrition. I don't know what's

25 happened since the merger that became Mosaic. 04:49PM

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1 Q Okay. Crop Nutrition was another business
2 unit or legal entity that ultimately ended up in
3 Mosaic, the fertilizer company?

4 A That's correct.

5 Q Okay. This also says in the last sentence of 04:49PM
6 that paragraph, the biggest factor by far is the
7 distance we need to haul the litter. Was there then
8 a hauling of litter in the Iowa project similar to
9 what you described was used in the southeast Kansas
10 area? 04:50PM

11 A Can you restate the question?

12 Q Yeah. Well, you read the sentence there, the
13 biggest factor by far is the distance we need to
14 haul the litter. So they were hauling litter in the
15 Iowa project similar to what you're describing was 04:50PM
16 attempted in the southeast Kansas project under the
17 Precision Ag name?

18 A My recollection is that our distance to
19 southeast Kansas was more than the distance in Iowa.
20 I'm not sure of the context of that E-mail sentence 04:50PM
21 but --

22 Q Okay, but so I'm clear, both of these projects
23 were litter hauling projects; correct?

24 A And land application.

25 Q All right. Do you know when the Iowa project 04:50PM

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1 began?

2 A No, I don't.

3 Q Who would know?

4 A Somebody associated with that project.

5 Probably somebody at Mosaic now. 04:50PM

6 Q Mosaic or Crop Nutrition, what was Crop
7 Nutrition?

8 A Yeah. It doesn't exist anymore. It's
9 probably Mosaic now.

10 Q Do you know if Mr. Devin Helming is still 04:51PM
11 around?

12 A No. He left the company three or four years
13 ago.

14 Q Okay.

15 A I think he's a stockbroker in the Minneapolis 04:51PM
16 area.

17 Q Let me hand you what's been marked as Exhibit
18 No. 11. Do you recognize that document? This is
19 approximately fourteen days later another E-mail
20 with an attachment to it, and then the third page I 04:51PM
21 believe is just a document that is attached by me as
22 part of this exhibit.

23 A What was your question?

24 Q Do you recognize the E-mail from Mr. Helming
25 to you two weeks later after the one we just looked 04:52PM

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1 at?

2 A I don't recall this E-mail. It looks like I
3 received it but I don't recall.

4 Q Okay. Was Mr. Helming assisting you with the
5 southeast Kansas hauling project of Precision Ag? 04:52PM

6 A He was in charge of that project.

7 Q All right, and the second page of this
8 document, there is what's referred to as an Arkansas
9 turkey analysis. Do you know what that purports to
10 represent? 04:52PM

11 A I'm not sure exactly that I understand. I
12 mean I can read the key in the bottom, but I'm not
13 sure.

14 Q The key indicates that it's showing levels of
15 phosphate soil test levels. Is that what you see? 04:53PM

16 A That's in the key, yes.

17 Q Who was in charge of the project for -- the
18 Precision Ag hauling project in southeast Kansas?

19 A Devin Helming was the guy from Cargill Crop
20 Nutrition that was here working on the project. 04:53PM

21 Q Okay. Who from the poultry litter side would
22 have been involved with that project in order to
23 have something to haul?

24 A Who was working with Devin; is that the
25 question? 04:53PM

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1 Q Yes. That may be a cleaner question.

2 A Tim Alsup and myself.

3 Q Okay. Was Tim more involved with this than
4 you on a detailed basis?

5 A Over time he became more involved. 04:53PM

6 Q So do you know -- do you have any idea what
7 the source of the information was for the second
8 page of this exhibit on 121874, this first map?

9 A Can you ask the question again?

10 Q Do you know what the source of the data was in 04:54PM
11 order to prepare this kind of a map?

12 A No, I don't. I can also tell you that during
13 this time period I was in Brazil.

14 Q Oh, you were? And you're getting E-mails from
15 Crop Nutrition while you were in Brazil for areas 04:54PM
16 dealing with northwest Arkansas?

17 A I'm looking at the date. That's incorrect,
18 that's incorrect. I was not in Brazil at the time.

19 Q So was there a time because we didn't come up
20 here -- was there a time you were working for 04:54PM
21 Cargill in Brazil?

22 A I was there for about three weeks doing due
23 diligence with an acquisition down there.

24 Q Okay. Was it on a poultry acquisition,
25 poultry business acquisition? 04:54PM

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1 A Chicken company.

2 Q Okay, and that due diligence had to do with
3 the environmental side, operations side or a
4 combination?

5 A Operations. 04:55PM

6 Q Looking at this, the second page of this
7 document, is there anything on there in your opinion
8 that would cause a material harm to Cargill if
9 someone outside of Cargill looked at this map?

10 MR. EHRICH: Object to the form of the 04:55PM
11 question.

12 A Can you restate that question?

13 Q Yeah. Can you think of any reason why if
14 someone outside of Cargill would look at this map,
15 it would cause a material harm to Cargill? 04:55PM

16 MR. EHRICH: Object to the form of the
17 question.

18 A I don't know that you can make that assumption
19 or speculation from this map.

20 Q Okay. Let me hand you now what's been marked 04:55PM
21 as Exhibit No. 20 and ask you to look at that
22 document and identify it to the court, please. Why
23 don't we do this. Let's go off the Record because
24 we're running out of tape and then if you would
25 thumb through this document, we'll talk about it 04:56PM

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1 when we come back. Okay?

2 A Okay.

3 MR. EHRICH: How are we on time?

4 COURT REPORTER: We're at 5 hours and 51

5 minutes.

04:56PM

6 VIDEOGRAPHER: We are now off the Record.

7 The time is 4:56 p.m.

8 (Following a short recess at 4:56 p.m.,

9 proceedings continued on the Record at 5:01 p.m.)

10 VIDEOGRAPHER: We are now back on the

05:01PM

11 Record. The time is 5:01 p.m.

12 Q Mr. Maupin, I've handed you actually two

13 exhibits, Exhibit 12 and 20. I believe these deal

14 with the same subject matter of what we talked

15 about, the Precision Ag litter hauling project. Am

05:02PM

16 I correct in that?

17 A It appears that's what this is.

18 Q So the first one, Exhibit 12, in June of 2003

19 is an E-mail from Mr. Helming to you and it says --

20 has an attachment Dean Springdale meeting July of

05:02PM

21 '03, a PowerPoint; do you see that?

22 A Yes.

23 Q The reference to Dean in this E-mail, is that

24 to Dean Fairchild, or do you know?

25 A Yes, as I recall it is.

05:02PM

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1 Q What was his position or title at that time?

2 A Dean was worldwide -- his title was worldwide
3 agronomist for Cargill Crop Nutrition.

4 Q All right. So do you know who compiled this
5 PowerPoint? Mr. Helming would be responsible for 05:02PM
6 that since he E-mailed it to you?

7 A It's my recollection that Mr. Helming put this
8 together for Dean Fairchild.

9 Q And were you present at the presentation of
10 this PowerPoint for Mr. Fairchild? 05:03PM

11 A I think I was.

12 Q And does this PowerPoint set forth in bullet
13 points essentially what the program was about, or
14 you tell me what it is intended to convey.

15 A By just flipping through here, my recollection 05:03PM
16 is this was parts of the pieces and a description of
17 ways that we might build a Precision Ag model in
18 southeast Kansas, and some of the things described
19 in there are things that were a part of the Iowa
20 Precision Ag model. 05:03PM

21 Q So you tried to incorporate those to make it
22 work in the southeast Kansas project; is that --

23 A Some of the pictures and some of the things
24 that are discussed here are things that I think they
25 did or do. 05:04PM

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1 Q Okay, and then in looking at Exhibit 20, the
2 other document there in front of you, it has an
3 October 16th, 2003, date on it, in Exhibit 20.

4 A Okay.

5 Q Can you tell me what an ag environmental 05:04PM
6 update is?

7 A Looking through this document, and this is
8 from my recollection, is that I presented this to
9 our business management team.

10 Q Who would that be? 05:04PM

11 A The managers that ran our turkey business at
12 the time.

13 Q And do you have names of those -- who those
14 people might have been?

15 A They were some of the same names I read to you 05:04PM
16 this morning, people that ran the individual pieces
17 of the business, plant operations.

18 Q Give me a couple --

19 A Complex managers.

20 Q Can you give me a couple of the more important 05:04PM
21 names that you can recall that would have been
22 involved in that?

23 A To me probably the most important was Steve
24 Willardson, my boss, was on the business management
25 team. 05:05PM

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1 Q Willardson?

2 A Uh-huh. Andy Southerly ran plant operations,
3 and the names I gave you this morning.

4 Q All right. What resulted from the
5 presentation to these managers with regard to this 05:05PM
6 Precision Ag project that was shown in this
7 environmental update?

8 A With regard to Precision Ag, we were
9 attempting to put that business model together and
10 in the meantime the Mosaic-Cargill Crop Nutrition 05:05PM
11 merger happened, and for lack of a better word,
12 Mosaic didn't have near the interest in the project
13 that Cargill Crop Nutrition did. Devin Helming left
14 and became a stockbroker, and we worked a little bit
15 with the project after that through Tim Alsup, but 05:06PM
16 it never fully got off the ground.

17 Q Okay. Was there in fact litter hauling put in
18 place at some time?

19 A There was some litter hauled to southeast
20 Kansas and the amount of that, I don't recall. 05:06PM

21 Q Was there an actual business plan put together
22 for this project?

23 A I'm not sure if it was a full-blown business
24 plan, but I remember Devin Helming working on that,
25 and I don't remember the details. 05:06PM

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1 Q Let me ask you to look at Exhibit 15 and see
2 if that particular document is in fact a business
3 plan for the Precision Ag that we've been talking
4 about. Obviously it has an E-mail with an
5 attachment to it but --

05:07PM

6 A I recall this document.

7 Q Is that the business plan that would have been
8 prepared for what we've been referring to as the
9 southeast Kansas litter hauling Precision Ag
10 project?

05:07PM

11 A That's what it appears to be, yes.

12 Q And would this have been produced, created by
13 this Mr. Helming to your knowledge or he and others?

14 A I think it was.

15 Q Was it -- was there ever a full presentation
16 of this business plan as part of your presentation
17 to the business managers as you described?

05:08PM

18 A I don't recall that we presented this business
19 plan to the business management team.

20 Q You'll notice the date of this is in May of
21 '04. Do you know whether the plan was in existence
22 prior to this particular E-mail?

05:08PM

23 A I don't know that the business existed prior
24 to this E-mail or for that matter, this structure
25 after this E-mail.

05:08PM

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1 Q This structure meaning --

2 A I don't recall. I don't recall the outcome of
3 this document.

4 Q Okay. Let me have you look at Exhibit 13.

5 MR. EHRICH: May we have a check on the 05:08PM
6 time?

7 COURT REPORTER: Yes. We're at 5 hours and
8 58 minutes.

9 A Are we finished with this?

10 Q Yes, sir. Exhibit 13, again, I'm trying to 05:09PM
11 identify first off, who is Chip Christian?

12 A Chip Christian was a Rocco employee at the
13 time of this E-mail. He was my boss.

14 Q He was?

15 A Yes. 05:09PM

16 Q This appears to have what's called litter
17 transportation project on the second page with a
18 spreadsheet. Can you tell me what this project was
19 about?

20 A This wasn't really a project as much as it was 05:09PM
21 an analysis of the cost of moving a number of tons
22 of litter in the Shenandoah Valley, and it was done
23 in some ways for a justification for the Harmony
24 plant.

25 Q So was it then tied solely to the Harmony 05:10PM

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1 plant project?

2 A It wasn't tied to the project. It was done as
3 an analysis of another method of accomplishing the
4 same thing.

5 Q So in lieu of putting it into the Harmony 05:10PM
6 plant, you did an analysis of actually transporting
7 it out of the Shenandoah Valley; is that what I
8 understand you to tell me?

9 A Yes. I believe that's what this analysis was.

10 Q And when it was being transported, in what 05:10PM
11 form was it in; was it the poultry litter right out
12 of the house or is it something that may have been
13 connected to the process after Harmony did something
14 to it?

15 A This was not connected to Harmony. It was 05:11PM
16 litter straight out of the houses.

17 Q So it would be a matter of just loading the
18 trucks and taking them someplace based upon certain
19 mileage calculations I think that were made in this
20 project; is that -- 05:11PM

21 A I don't recall the mileage that's on there. A
22 couple hundred miles.

23 Q Do you recall what was the determination or
24 conclusion from this project, this effort?

25 A This is my recollection, it's a long time ago, 05:11PM

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1 but that the Harmony plant was more efficient than
2 the transportation model.

3 Q So did the Harmony plant come into existence
4 after this 1999 time frame?

5 A Yes. 05:11PM

6 Q Who is Vernon Meacham?

7 A Vernon Meacham is the -- his title I guess was
8 vice-president. He was in charge of operations for
9 Harmony.

10 Q Okay, and if you look at Page 121878, there is 05:12PM
11 an E-mail there from M. Bardaro.

12 A Can you read the number again?

13 Q 121878. Mike Bardaro, Harmony Products, Inc.
14 Do you recall the name, Mike Bardaro?

15 A I know the name. 05:12PM

16 Q He was not involved with Cargill; he was a
17 Harmony Products, Inc., person?

18 A As I recall, he was the CFO of Harmony.

19 Q Okay. This was still at a time where I think
20 you told me Rocco or then later Cargill had through 05:12PM
21 Rocco an ownership interest in Harmony; correct?

22 A Yes.

23 MR. EHRICH: Object to the form. Counsel,
24 I think we're probably beyond the six-hour limit at
25 this point. 05:13PM

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1 MR. BULLOCK: It's seven hours is the
2 limit, but we're beyond six.

3 MR. GARREN: And we're not far from being
4 done.

5 A Did I answer your question? 05:13PM

6 Q I think so. Let me hand you now what's been
7 marked as Exhibit 23 and ask if you've seen that
8 document. If you do, do you know what it is?

9 A I remember this document and I don't remember
10 exactly who this was to. 05:14PM

11 Q You don't remember what the environmental
12 study committee would be?

13 A No. I almost remember it being a company in
14 Canada.

15 Q What are you talking about, that the study 05:15PM
16 committee is a company in Canada or --

17 A I'm not positive. I remember putting this
18 document together, and there was a company up in
19 Canada. I cannot recall the name of the company
20 that had called me several times and we were talking 05:15PM
21 about different types of alternative uses for

22 poultry litter, and so I remember putting a document
23 together that just talked about all the things I
24 looked at, and I'm not positive if that's what this
25 is. I'm just -- I'm just -- 05:15PM

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1 Q What would have been the time frame that you
2 would have compiled this document?

3 A This would have been during the Rocco years.

4 Q So prior to Cargill's acquisition at least?

5 A Yes. 05:16PM

6 Q Would there have been an in-house
7 environmental study committee at Rocco that this
8 would have been entitled to or as it's titled, sent
9 to, presented for?

10 A No. We didn't have an environmental study 05:16PM
11 committee.

12 Q Okay. Let me hand you what's been marked as
13 Exhibit 7 and ask you to look at that and see if you
14 can identify that for me. All the documents are the
15 same; they're just different forms for the farm 05:16PM
16 audit there.

17 A Okay.

18 Q Looking at the top of one of the forms, it
19 says Cargill Turkey Products Inc., so does that help
20 you -- obviously it shows a date on there of '02 on 05:17PM
21 some of these.

22 A Is there a specific one you're looking at?

23 Q I'm just glancing through there. The time
24 frame is probably '02 and '03. What is the purpose
25 of environmental farm audits? 05:17PM

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1 MR. EHRICH: Object, lack of foundation,
2 form of question.

3 Q Let me ask you this: Have you seen these
4 audits, farm audits before?

5 A I have seen the environmental form, audit 05:17PM
6 form.

7 Q And do you know who prepared the environmental
8 farm audit form that's being used to conduct the
9 audit?

10 A Tim Alsup and myself. 05:17PM

11 Q Okay, and what was the purpose of preparing a
12 form that would create this environmental audit?

13 A There were a number of different reasons. We
14 thought that our service or flock supervisors could
15 be helpful in pointing out things to growers that 05:18PM
16 might be of concern to their operation, a number of
17 different items here. Some were cosmetic in nature,
18 mowing and drainage, and some were nuisance issues.

19 Q Which ones --

20 A Poultry litter storage. 05:18PM

21 Q Which ones do you refer to as a nuisance
22 issue?

23 A Flies, dust, odor.

24 Q Any others?

25 A No. 05:18PM

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1 Q I --

2 A Mortality management was another issue.

3 Q I notice it has a heading for litter disposal,
4 which includes storage, NNP, storage building use
5 and other? 05:18PM

6 A Disposal is probably a poor word. It probably
7 should have been litter management. Those are
8 things that were visual while our flock supervisor
9 was there, and so we just wanted to be helpful to
10 growers in managing their operation. 05:19PM

11 Q And does this process continue today?

12 A Yes, it does.

13 Q And are these forms continued to be used
14 today?

15 A The form is similar to this. 05:19PM

16 Q Okay, and who reviews these forms when they're
17 prepared by a grower?

18 A These are filled out by the flock supervisor,
19 and then if there are problems from these forms that
20 are not fairly quickly rectified, then our ag 05:19PM
21 manager or grow-out manager at the location becomes
22 involved.

23 Q All right, and I notice the signature of the
24 grower appears on here. Is he required to read it
25 before he signs it? 05:20PM

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1 A Yes. The grower looks at this before he signs
2 it.

3 Q Is this data compiled in any way other than
4 the single page forms?

5 A Not to my knowledge. 05:20PM

6 Q You may put that aside. I'll hand you Exhibit
7 No. 19 and ask you to identify this document, if you
8 would, please. Do you know who Jason -- I'm sorry,
9 Greg Jason is?

10 A I know who Greg Jason is. 05:21PM

11 Q And what does he do for Cargill?

12 A He's -- he works for Cargill in the area of
13 energy management.

14 Q Okay, and do you know what the -- what is the
15 nature of your being included on this E-mail with 05:21PM
16 this recharge report from The Groundwater Foundation
17 in July of 2002?

18 A I don't recall this E-mail. Some of the names
19 at the top of the E-mail are people that are
20 involved in environmental affairs for different 05:21PM
21 parts of Cargill.

22 Q Would one of those be Michelle Adams?

23 A I don't know Michelle Adams.

24 Q Do you know what the suffix or the extension
25 slash ETOB refers to? 05:22PM

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1 A No, I don't.

2 Q Further down the line a Michelle Chang. Do
3 you know that person?

4 A No, I don't think I do.

5 Q Do you know what the forward slash BLAI 05:22PM
6 designation is on that E-mail?

7 A No.

8 Q Do you know a person by the name of Ernst
9 Covers, C-O-V-E-R-S?

10 A No, don't know that name. 05:22PM

11 Q Do you know whether these people are employed
12 by Cargill?

13 A I know that some of the people on that list
14 are employed by Cargill.

15 Q Okay. Do you know what -- have you ever seen 05:22PM
16 The Groundwater Foundation recharge reports before
17 this?

18 A It's not something that I normally see. I
19 don't recall this article.

20 Q When Cargill Turkey Production, LLC, took over 05:23PM
21 the poultry growing operations, were all of the same
22 documents, records and things used prior to Cargill
23 Turkey Production, LLC, coming in existence given to
24 those to use with the new entity?

25 MR. EHRICH: Object to the form of the 05:23PM

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1 question.

2 Q Do you understand my question?

3 A I think you should restate it. I want to make
4 sure I understand it.

5 Q Let me ask it this way: When that transition 05:23PM
6 occurred to the new LLC entity, I think I heard you
7 say earlier today that essentially everybody stayed
8 in place, did the same thing with the same materials
9 they had available to them in the entity that
10 existed prior to that. Is that a correct statement? 05:24PM

11 MR. EHRICH: Counsel, I object. This and
12 that, I'm sorry, maybe it's just late in the day,
13 but I'm having trouble figuring out what that
14 question is.

15 MR. GARREN: Object to the form is all you 05:24PM
16 are required to do.

17 MR. EHRICH: Well, I'd ask you the courtesy
18 to restate it.

19 MR. GARREN: And you can do that by
20 objecting to the form. 05:24PM

21 MR. EHRICH: Fine. Then I am.

22 Q Do you understand what I'm asking?

23 A I'd like you to restate the question again.

24 Q If -- what was the predecessor entity to the
25 Cargill Turkey Production, LLC? 05:24PM

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1 A Prior to Cargill Turkey Production, LLC, our
2 group was a part of Cargill Turkey Products,
3 Incorporated, or Cargill Value Added Meats.

4 Q Okay. When the LLC became the entity under
5 which you operated the poultry growing operations, 05:25PM
6 did you have the same access to all the documents
7 and records that previously existed before the LLC
8 went into being?

9 A I'm not in accounting, but to my knowledge we
10 did. 05:25PM

11 Q Okay, and for operation records, other than
12 accounting, were those same records available to the
13 personnel to continue the operations as previously
14 operated?

15 MR. EHRICH: Object to the form, lack of 05:25PM
16 foundation.

17 A To my knowledge, we were.

18 Q For the people that were working during that
19 transition, was it more of a name change to them
20 than any effect on their operations? 05:25PM

21 MR. EHRICH: Object to the form.

22 A I don't know that I can answer that. I can
23 only answer for myself I guess in that case.

24 Q How did you perceive that when it occurred;
25 was it more of a name change rather than a 05:25PM

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1 functional operational change?

2 MR. EHRICH: Object to the form.

3 A For me the change was I became an officer of
4 the new LLC.

5 Q And did that change the operations that 05:26PM
6 previously existed --

7 MR. EHRICH: Same objection.

8 Q -- by your becoming an officer?

9 MR. EHRICH: Excuse me. Same objection.

10 A Certainly there's more responsibility with 05:26PM
11 being an officer of a company.

12 Q But I'm talking more about the operations of
13 the company. Were there any substantive changes the
14 date before that LLC took over from thereafter?

15 A Not to the extent of the business I did for 05:26PM
16 the LLC.

17 Q Okay, and I'm talking about everybody else
18 within that business. Their functions essentially
19 remained the same even though the LLC took over
20 those -- that function; is that correct? 05:26PM

21 MR. EHRICH: Object to the form.

22 A The reporting structure was a little bit
23 different. We had a different set of officers.
24 That doesn't speak for all employees. I don't know
25 what all employees' perception was of the change. 05:27PM

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1 Q The day-to-day operations stayed essentially
2 the same?

3 MR. EHRICH: Same objection, asked and
4 answered.

5 A For people in the field, my understanding is 05:27PM
6 that things remained very similar.

7 Q Okay. Are you familiar with a group called
8 Poultry Partners?

9 A Yes, I've heard of the group.

10 Q What is that group? 05:27PM

11 A It's my understanding that Poultry Partners is
12 a group that lobbies on behalf of growers in
13 Oklahoma in the IRW.

14 Q Has Cargill contributed to the Poultry
15 Partners organization? 05:28PM

16 MR. EHRICH: Object to the form of the
17 question.

18 Q Let me hand you what's been marked as No. 28.
19 Do you remember seeing that document?

20 A It's been a long time. I probably have seen 05:28PM
21 this document.

22 Q Do you know who Paul Lawrence is, please?

23 A Yes, I do.

24 Q What is his position with Cargill?

25 A He's our complex manager in Springdale, 05:28PM

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1 Arkansas.

2 Q And was he in the same position in 2005 when
3 this E-mail was created?

4 A Yes.

5 Q Looking at the very next page of this 05:28PM
6 document, 121937, it's an E-mail from you to Mr.
7 Lawrence, it says we paid about 3,000 into Poultry
8 Partners when they were formed. Do you recall who
9 was responsible for making that payment?

10 A I recall that payment. 05:29PM

11 Q Who was responsible for seeing that it
12 occurred?

13 A Oh, that payment was run through our
14 accounting group.

15 Q Meaning what; what's our accounting group 05:29PM
16 mean?

17 A Dennis Fullbright, who is our ag controller.

18 Q So would he be the person to pull the trigger
19 that causes the check to get written or what?

20 A I approved the payment. 05:29PM

21 Q All right, and were there any other payments
22 made besides the 3,000 that's referenced in this
23 document?

24 A I don't recall; I don't recall.

25 Q Do you believe that there were? 05:29PM

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1 A I just don't remember. There could be, but I
2 don't remember.

3 Q Were you ever privy to the operational books
4 or records of Poultry Partners?

5 A No, I have not been. 05:30PM

6 Q Let me hand you what's been marked as Exhibit
7 24 and ask you to identify that document.

8 A I remember this E-mail.

9 Q Did you ever get a response to your question,
10 does high level of animal protein explain the high 05:31PM
11 levels of soluble P in our litter samples?

12 A I don't recall.

13 Q How would you know that there were high levels
14 of animal protein that caused you to ask this
15 question? 05:31PM

16 A My recollection is that we had seen a few high
17 litter phosphorus samples in the Eucha-Spavinaw
18 watershed in buildings, and we were trying to
19 understand why they would be that way.

20 Q So litter was actually in the barn still? 05:31PM

21 A I think it was in litter sheds at that time.

22 Q Okay. So the testing that occurred on that
23 litter was occurring for what reason?

24 A It was a part of the settlement of the
25 Eucha-Spavinaw watershed lawsuit. 05:32PM

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1 Q So Cargill wasn't doing the testing; third
2 parties were doing that testing?

3 A The testing was being done third party.

4 Q And reports were provided through your office
5 apparently?

05:32PM

6 A I don't remember the way the reports were
7 funneled back to us. I remember there being --
8 somebody just asked the question about the test
9 result seemed high, and so I think I asked the
10 question about how they would be high.

05:32PM

11 Q And you don't recall ever getting a response?

12 A I don't remember.

13 Q Would the person which would or should respond
14 to you be this Gregory Engelke?

15 A Greg Engelke is a consulting nutritionist with
16 Cargill Animal Nutrition in Minneapolis. He worked
17 for our business in that time period.

05:32PM

18 Q Is he still here or with Cargill?

19 A He still consults for us.

20 Q So he's not an employee?

05:33PM

21 A He's an employee of Cargill Animal Nutrition.

22 Q And he is still officing in Minnesota; is that
23 correct?

24 A Yes.

25 MR. GARREN: Let me go off the Record for

05:33PM

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1 five minutes, and let me check my notes. And I
2 think we're about done.

3 VIDEOGRAPHER: We're now off the Record.
4 The time is 5:32 p.m.

5 (Following a short recess at 5:33 p.m., 05:33PM
6 proceedings continued on the Record at 5:38 p.m.)

7 VIDEOGRAPHER: We are now back on the
8 record. The time is 5:38 p.m.

9 Q Let me hand you Exhibit No. 27. This is an
10 E-mail authored by you in June of 2005 to a Manning 05:39PM
11 at an AOL E-mail address.

12 A Okay.

13 Q It talks about explaining that most of our
14 litter goes Mida-Bio for composting or land
15 application. Is that a reference to the Waco 05:39PM
16 complex only?

17 A Yes.

18 Q And what is Mida-Bio?

19 A Mida-Bio is a composting operation in the
20 Waco, Texas area, and we took some litter from our 05:39PM
21 growers in our Waco complex.

22 Q Does Cargill have its own growing operations
23 in the Waco complex, company operations?

24 A We have -- not in the Waco, Texas area. We
25 have a breeder operation in Clifton, Texas. 05:40PM

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1 Q Does the poultry litter or waste produced from
2 that operation go into this project, the Mida-Bio
3 composting?

4 A I can't remember exactly which farms go to
5 Mida-Bio, but it's possible that some of the breeder
6 farms in the Clifton area go Mida-Bio.

05:40PM

7 Q Is there anything of a similar nature that's
8 operating in or around the Illinois River watershed
9 to your knowledge? When I say -- such as the
10 Mida-Bio project that's described here.

05:40PM

11 A There could be, but I don't know if there is.

12 Q So I take it from that answer then, Cargill is
13 not contributing through itself or its contract
14 growers litter to such a project out in the IRW
15 area?

05:40PM

16 A They could be. I just don't know the answer
17 to that.

18 Q Okay. So a contract grower could be is what
19 you are saying?

20 A They could be sending their poultry litter to
21 a composting operation and I don't have knowledge of
22 it.

05:41PM

23 Q What does Cargill do with poultry litter
24 generated from the growing operations in the IRW
25 today?

05:41PM

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1 MR. EHRICH: Object to the form.

2 A Cargill is not responsible for the litter that
3 our contract growers produce.

4 Q I'm talking about company farms. I apologize.

5 With regard to the six breeder farms that Cargill 05:41PM
6 operates today, the litter that's generated from
7 those farms, what is now happening to that litter
8 after it's been used?

9 A That litter is to be moved out of the IRW.

10 Q And how is that occurring? 05:41PM

11 A It's being done through a third-party
12 contractor.

13 Q And who is that third-party contractor?

14 A I don't know the name.

15 Q Who would know? 05:41PM

16 A Tim Alsup.

17 Q Okay, and when you say all of it, do you mean
18 all of the waste generated at all six of the breeder
19 farms is actually being removed outside the
20 watershed? 05:42PM

21 A Moving forward all the litter on those six
22 company breeder farms in the IRW that Cargill runs,
23 operates, that litter is to be moved out of the IRW.

24 Q So from that statement, it's not all being
25 done today; correct? 05:42PM

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1 A Today it is.

2 Q Why did you say it is to be moved out?

3 A We were under the impression from statements
4 made by our breeder manager that all of that litter
5 had been moved out of the IRW. We have found out 05:42PM
6 over the last couple of weeks that that's not the
7 case.

8 Q And what did you find out about that then from
9 that manager, and identify the manager.

10 A His name is Charlie Delap, and he had made 05:43PM
11 statements to Cargill that the litter was being
12 handled in a certain way. Those statements were not
13 100 percent correct, and so as a part of that
14 process, he's no longer with our company.

15 Q Okay. When was he terminated? 05:43PM

16 A About two weeks ago.

17 Q And where is he now, if you know?

18 A I don't know if he's employed now or not.

19 Q When you had a discussion with him that led to
20 his termination, what did you learn was the amount 05:43PM
21 or percentage, some quantity that was not being
22 removed from the watershed from those six breeder
23 farms?

24 MR. EHRICH: Object to the form.

25 A It's my understanding that the amount of 05:44PM

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1 poultry litter sweepings, dust that was not removed
2 as a part of that process was a very small
3 percentage of the total amount of tons produced by
4 those operations.

5 Q Give me some quantification of what you 05:44PM
6 believe that to be.

7 A I can only give you an estimate, and it would
8 be a very low percentage, several percent of the
9 total amount of litter produced on those farms.

10 Q What do you mean by several percent? 05:44PM

11 A The number may be in the 2 to 4 percent range
12 of the total litter produced there.

13 Q And what did you learn was being done with
14 that estimated 2 to 4 percent?

15 A That combination of litter, dirt and things 05:44PM
16 that were swept out of the house were being land
17 applied there.

18 Q On the property owned by Cargill?

19 A Yes.

20 Q And it's your statement that that is not 05:45PM
21 occurring today or it's being fixed so that it won't
22 occur in the future?

23 A Won't occur in the future.

24 Q The third-party contractor that's taking the
25 waste from those breeder farms, do you know the name 05:45PM

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1 of that contractor?

2 MR. EHRLICH: Object to the form.

3 A I don't know.

4 Q Tim Alsup would know or who?

5 A Tim Alsup. 05:45PM

6 MR. GARREN: I pass the witness.

7 CROSS EXAMINATION

8 BY MR. EHRLICH:

9 Q Just a couple of questions, Mr. Alsup (sic).

10 When Mr. Garren was questioning you, we looked at 05:45PM

11 some length at Exhibit 9, Exhibit 9 being a

12 collection of various environmental best practice

13 management. Do you remember that; do you remember

14 when he was questioning you about these documents?

15 A Yes. 05:46PM

16 Q Do you remember being asked whether Cargill

17 had an environmental policy at the time of the

18 Cargill acquisition of Rocco in 2001?

19 A Yes, I remember that question.

20 Q Do you remember your response was no; do you 05:46PM

21 recall that?

22 A Yes.

23 Q Now, when you said no, did you mean that

24 Cargill had no written policy, no policy at all or

25 some other response? 05:47PM

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1 MR. GARREN: Object, compound and leading.

2 A My response was aimed at a written
3 agricultural environmental policy. I don't have
4 knowledge that that existed prior to the acquisition
5 of Rocco. What Cargill did have in place is a 05:47PM
6 policy that all of our contract growers and company
7 farms will comply with local, federal and state
8 laws, and so that's a part of our policy -- was a
9 part of our environmental policy that Cargill had in
10 years previous to the Rocco acquisition. 05:47PM

11 Q Now, Mr. Garren spent some time talking with
12 you about the environmental best practices manual
13 that you helped develop while you were at Rocco back
14 in about 1998 or so. Do you remember that line of
15 testimony? 05:48PM

16 A Yes.

17 Q Can you describe when regulation of land
18 application of poultry litter began in Virginia?

19 A The initial county ordinances and things began
20 in the mid '90's, and certainly environmental 05:48PM
21 regulation in Virginia was on a faster track than it
22 was in the Midwest. So it was a natural progression
23 for environmental management to be at a faster pace
24 in the East, and so when I came to Cargill in 2001,
25 I brought a lot of those principles and manuals and 05:49PM

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1 policies with me.

2 Q When you came to Springdale in 2001 and after
3 Cargill acquired Rocco, did the State of Arkansas
4 have any state regulation of poultry litter
5 application? 05:49PM

6 A They did not at that time.

7 Q To your knowledge when did Arkansas --
8 Arkansas' regulatory scheme as to poultry litter
9 application go into effect?

10 A I think that process began with regulations 05:49PM
11 that were drafted in 2004.

12 Q And as to the State of Oklahoma, did the State
13 of Oklahoma have any statewide regulatory program as
14 to poultry litter application when you came from
15 Rocco to Cargill in 2001? 05:49PM

16 A I know that there was regulation in Oklahoma
17 in that early 2000 time period. I'm not sure when
18 that regulation came into effect.

19 Q What did you do with the Rocco manual that you
20 brought with you from Virginia when you came to 05:50PM
21 Springdale?

22 A Over the first year and a half that I was
23 working with growers in the Midwest, we modified
24 that set of best management practices and we issued
25 those to our growers. 05:50PM

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1 Q And was the environmental best practices
2 manual furnished to growers in Oklahoma before the
3 regulatory system came into effect in Oklahoma?

4 A I don't know the exact date of the Oklahoma
5 regulation being enacted.

05:51PM

6 Q Same question with respect to Arkansas, did
7 you furnish an environmental best practices manual
8 to the contract growers in Arkansas before that
9 program came into effect?

10 A In Arkansas the environmental best management
11 practices manual predated the regulation in that
12 state.

05:51PM

13 MR. EHRICH: I think that's all I have.

14 MR. BULLOCK: On the phone?

15 MR. SANDERS: No questions from Cal-Maine.

05:51PM

16 MS. LLOYD: No questions from George's.

17 MR. BOND: No questions from Tyson.

18 MR. GARREN: I have a couple more redirects
19 now.

20 REDIRECT EXAMINATION

21 BY MR. GARREN:

22 Q So that I'm clear, you made it clear in
23 talking about Exhibit 9, Mr. Maupin, that there was
24 a policy and then that was a handbook. Do you
25 remember that distinction?

05:52PM

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1 A Yes.

2 Q And did Cargill have a handbook for best
3 management practices when you came on board with
4 Cargill?

5 A Cargill had best management practices 05:52PM
6 handbooks when I came on board.

7 Q And were any of those produced or existing in
8 Exhibit 9 that we looked at today?

9 A The handbooks you asked about were not in
10 Exhibit 9. 05:52PM

11 Q Do you know when the Cargill handbook was
12 created?

13 A I don't know the exact dates that Cargill had
14 handbooks created.

15 Q Let's make sure we are talking about the same 05:53PM
16 thing. The best management practices, which is the
17 environmental best management practices handbook,
18 are you telling me that Cargill had one of those
19 prior to your being involved with Cargill?

20 A I want to be clear what I was answering. 05:53PM
21 That's not the question you asked me a minute ago.

22 Q Okay. Let's make sure we are clear because I
23 know there's some confusion with these similarly
24 named documents. First off, you distinguish that
25 there was a policy. In your opinion that policy was 05:53PM

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1 a single page document which was different from the
2 environmental best management practices handbook; is
3 that a correct summary of your statement?

4 A Yes, in Exhibit 9, that's correct.

5 Q Now, the environmental best management 05:53PM
6 practices handbook, the larger document, not the
7 single page document, was it in existence with
8 Cargill prior to your being involved with Cargill to
9 your knowledge?

10 A That document did not exist with Cargill prior 05:54PM
11 to my involvement with Cargill.

12 Q Okay. Did Cargill then rely on what had been
13 used by Rocco as a best management environmental
14 handbook to develop its own under its name, under
15 Cargill's name? 05:54PM

16 A The basis of the Cargill environmental best
17 practices manual was the manual created at Rocco.

18 Q All right. Now, to be proactive and an
19 environmental good steward, it wouldn't require that
20 there be state regulations before one could be 05:54PM
21 proactive or a good steward; would you agree with
22 that?

23 MR. EHRICH: Object to the form.

24 A I think with or without state regulation
25 Cargill and Rocco poultry growers were good 05:55PM

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1 environmental stewards.

2 Q That's not my question. My question is, it
3 doesn't require state regulations to go in effect in
4 order for Cargill to act as a good environmental
5 steward; would you agree with that? 05:55PM

6 A I think you can see from the record that we
7 were acting prior to the regulation in Arkansas.

8 Q Were you acting prior to the regulation in any
9 other states that you operated in?

10 A We were in the process of those same actions 05:55PM
11 in Virginia prior to the regulation.

12 Q Well, let's look at that. The environmental
13 handbook, the large document that evolved from
14 Rocco, didn't evolve until after 2001; would you
15 agree with that? 05:55PM

16 A I don't agree with that.

17 Q The environmental best management practice
18 handbook that was used by Cargill was not put into
19 place until after it acquired Rocco; is that
20 correct? 05:56PM

21 A You've asked that question two different ways.
22 That handbook for Rocco, as I answered the question,
23 was first established in 1999.

24 Q My question is Cargill, not Rocco. Cargill
25 did not put into effect an environmental best 05:56PM

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1 management practices until after 2001, which was the
2 acquisition time of Rocco; correct?

3 A The physical document happened in the time
4 frame you discussed. Cargill had an environmental
5 policy to comply with state and federal laws prior
6 to that.

05:56PM

7 Q I'm only dealing with the handbook. All
8 right? Let's just deal with the handbook so the
9 Record is clear. Do you know when the legislation
10 went into effect in Oklahoma dealing with poultry
11 growing operations?

05:56PM

12 A I've already stated I don't recall the date.

13 Q If it were 1998, then that handbook would be
14 subsequent to those regulations; agree?

15 MR. EHRICH: Counsel, I mean that's --
16 object to the form, completely argumentative and
17 misrepresents --

05:57PM

18 MR. GARREN: You've objected. Please, you
19 don't need to make a -- well, you don't need to make
20 a speaking objection.

05:57PM

21 Q If the regulations in Oklahoma went into
22 effect in 1998 that controlled handling and disposal
23 of poultry waste, that would have been before
24 Cargill had a best management environmental practice
25 handbook in Oklahoma, wouldn't it?

05:57PM

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1 MR. EHRICH: Object to the form.

2 A If that is in fact the date in Oklahoma, your
3 statement is correct.

4 Q All right. Now, would you agree with me,
5 though, sir, that what you've talked about is the
6 common use for years of poultry litter once it's
7 used is to have been land applied; correct?

05:57PM

8 A That's a common use for poultry litter.

9 Q And that use is common to Oklahoma and
10 Arkansas, as well as Virginia; would you agree with
11 that?

05:57PM

12 A That's correct.

13 Q So if somebody knew that there was a risk of
14 environmental harm as a result of that practice, it
15 didn't take a state regulation to be proactive and
16 have an environmental handbook for its growers, did
17 it?

05:58PM

18 MR. EHRICH: Object to the form of the
19 question.

20 A I don't agree with your assumption that
21 growers were mishandling poultry litter in the years
22 prior to the handbook or the regulation.

05:58PM

23 Q But you don't know for a fact what the soil
24 test phosphorus levels are in Oklahoma or Arkansas,
25 do you?

05:58PM

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1 A That's correct. They're on a farm-by-farm and
2 site-by-site basis, and I don't have that knowledge.

3 Q Have you seen the nutrient management plan for
4 the Cargill breeder farms and the soil test
5 phosphorus that's associated with those plans? 05:58PM

6 A I have seen a plan some years ago for those
7 farms.

8 Q And did you see the soil test phosphorus that
9 was conducted on those in 1998?

10 A I have seen those phosphorus results. 05:58PM

11 Q And do you remember how high they were?

12 A I don't know the exact number.

13 Q Several hundred in STP; do you recall that?

14 A I remember the number being in the hundreds
15 STP, yes. 05:59PM

16 Q If, as you say, Cargill had a policy of its
17 growers complying with state law, in Arkansas they
18 would not have had to do anything until that law was
19 enacted in '06 or '07; correct?

20 MR. EHRICH: Object to the form of the 05:59PM
21 question.

22 A By contract, we asked for nutrient management
23 plans to be in place or applied for by January 1st,
24 2004. So we were ahead of the date of the state
25 law, and certainly there's been a backlog of writing 06:00PM

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1 plans and those kinds of things.

2 Q And, in fact, not all of your growers had
3 nutrient management plans in 2004, did they?

4 MR. EHRICH: Object to the form.

5 A My recollection is that they did not. 06:00PM

6 Q And do you know when there was 100 percent
7 compliance with having a nutrient management plan in
8 Arkansas?

9 A I don't know that date.

10 MR. GARREN: No other questions. 06:00PM

11 RECROSS EXAMINATION

12 BY MR. EHRICH:

13 Q Mr. Maupin, in Mr. Garren's questioning, he
14 seems to assume that the only communication Cargill
15 had with its growers before the best -- 06:00PM
16 environmental best management -- strike that. The
17 only communication he assumes that Cargill had is
18 through the environmental best management practice
19 manual or handbook, whenever that was distributed.
20 Before that date, whenever it was, did Cargill 06:01PM
21 otherwise communicate with its contract growers
22 about environmental stewardship?

23 MR. GARREN: Objection, leading.

24 A It's my understanding, even though I wasn't
25 under the employ of Cargill, that over a number of 06:01PM

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1 years there had been grower meetings that had
2 discussed the issue. There were certainly meetings
3 with extension organizations within the states and
4 state and federal agency meetings.

5 Q How about now after you arrived in Springdale 06:01PM
6 having arrived from Rocco; you know that Cargill had
7 communications with its environmental -- growers
8 regarding environmental stewardship?

9 MR. GARREN: Objection to form as leading.

10 A That's correct, and I held some of those 06:01PM
11 meetings myself.

12 Q And what were they?

13 A Meetings to discuss nutrient management,
14 oncoming regulation, mortality disposal, those type
15 of issues. 06:02PM

16 MR. EHRICH: No other questions.

17 MR. GARREN: None.

18 VIDEOGRAPHER: This concludes the
19 deposition of Timothy Maupin. We are now off the
20 Record. The time is 6:01 p.m. 06:02PM

21 (Whereupon, the deposition was
22 concluded at 6:02 p.m.)
23
24
25

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SIGNATURE PAGE

I, Timothy Maupin, do hereby certify
that the foregoing deposition was presented to me by
Lisa A. Steinmeyer as a true and correct transcript
of the proceedings in the above styled and numbered
cause, and I now sign the same as true and correct.

WITNESS my hand this _____ day of
_____, 2008.

TIMOTHY MAUPIN

SUBSCRIBED AND SWORN TO before me this
_____ day of _____, 2008.

Notary Public

My Commission Expires:

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CORRECTIONS TO THE DEPOSITION OF
TIMOTHY MAUPIN

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